

# **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**

## **Low Income Housing Tax Credit Compliance Monitoring Procedures Manual**

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## **INTRODUCTION**

### **BACKGROUND**

Under the federal Tax Reform Act of 1986, the U.S. Department of Treasury established the Low Income Housing Tax Credit Program as an incentive for investment in the construction and rehabilitation of low income housing. The Internal Revenue Service (“IRS”), as part of the Department of Treasury, became the administrator of the tax credit program described in Section 42 of the Internal Revenue Code (“IRC”, “Code”)(See [Exhibit D10](#)). The New Jersey Housing and Mortgage Finance Agency (the “Agency”) was designated as the housing credit agency for the State of New Jersey responsible for allocating the Low Income Housing Tax Credit.

The Omnibus Budget Reconciliation Act of 1990 amended the Internal Revenue Code to require that the designated housing credit agency establish a procedure for monitoring housing developments for compliance with the federal tax credit program regulations effective January 1, 1992. Following that amendment, the Internal Revenue Service adopted final regulations which describe the minimum procedure that the designated housing credit agency must follow for monitoring compliance of buildings developed with the low income housing credit (See [Exhibit D1](#)). These final regulations became effective June 30, 1993.

### **PURPOSE FOR THIS MANUAL**

This manual, designed by the New Jersey Housing and Mortgage Finance Agency (“the Agency”), is a guide to understanding compliance monitoring under Section 42 of the Internal Revenue Code, which governs the use of the Low Income Housing Tax Credit. It was developed, pursuant to Section 42 of the IRC and the IRS Procedure for Monitoring Compliance, for project owners, management companies, on-site management personnel and anyone involved with Agency procedures for monitoring compliance of tax credit properties. It is intended to be used as a supplement, and not a replacement, to the Internal Revenue Code, revenue procedures, revenue rulings, letter rulings, notices, announcements, any applicable Treasury regulations and any applicable federal law.

The Internal Revenue Service requires that the New Jersey Housing and Mortgage Finance Agency as the housing credit agency for the State of New Jersey monitor all projects that were developed as a result of an allocation of tax credits.

The Internal Revenue Service has made it clear that compliance with the requirements of the Code is the sole responsibility of the owner of any building for which the credit has been allocated. The Agency's responsibility to monitor for compliance will not cause the Agency to be liable for an owner's noncompliance. Therefore, an owner should not rely solely on the Agency to determine if the project records are in compliance. In addition, the owner should not rely solely on any outside service, organization or agency in their dealings with the owner's tax credit buildings. Any error that is made will be the responsibility of the owner.

Use of this manual does not ensure compliance with the Internal Revenue Code, Treasury regulations, or any other laws or regulations governing Low-Income Housing Tax Credits. In addition, it does not guarantee the financial viability of any project. As a result, the Agency recommends that all tax credit recipients consult their tax accountant, attorney or advisor as to the specific requirements of the tax credit program and Section 42 of the Code.

## CHAPTER 1

### COMPLIANCE PROCEDURES

The Agency is required by the Internal Revenue Service to monitor each development throughout the project's compliance period. This section of the manual outlines the Agency's compliance procedures that should be followed by the owners of projects that were developed as a result of an allocation of tax credits. These procedures are consistent with the Internal Revenue Service Procedure for Monitoring Compliance. Compliance with the Internal Revenue Code and these procedures is necessary to assure the continued use of the low income housing tax credit.

#### **Agency Responsibilities**

The Agency allocates tax credits through a competitive application process in accordance with the State's qualified allocation plan. An allocation plan is qualified if it contains a procedure that the Agency will follow in monitoring compliance with the provisions of the Code. Once an allocation is awarded, the owner will receive from the Agency the Form 8609 (See [Exhibit E1](#)) with Part I completed by the Agency. The Agency will then do the following to monitor a project for compliance:

1. Provide the building owner with the Internal Revenue Service Procedure for Monitoring Compliance and the Agency's Monitoring Procedures Manual (*This document*).
2. Annually request and review the submission of the Owners Certificate of Continuing Program Compliance (See [Exhibit B1](#)), the Annual Project Certification with Special Needs Component (See [Exhibit B2](#)), and Social Service Model (See [Exhibit B3](#)) and the Building Status Report (See [Exhibit B4](#)), for the preceding twelve (12) month period.
3. For a minimum of thirty-three (33) percent of the projects, annually perform physical inspections of developments and reviews of tenant files and project files (See *Owner/Agent Recordkeeping* [Exhibit D9](#)). The Agency will select which projects will undergo Agency review and will give owners reasonable notice that their project has been chosen as well as identify which documents will need to be submitted. Reviews may occur more frequently than on a twelve (12) month basis, provided that all months within each twelve (12) month period are subject to certification.
4. The Agency may also review the records of occupancy for the first twelve (12) months in order to ensure that the minimum set-aside was met within the appropriate time period. (*In order to claim any tax credits, owners must meet their minimum set-aside by the end of the first year in which the project is placed in service or by December 31st of the following year depending on which year is the first year of the credit period. Owners are encouraged to speak with their legal counsel regarding this issue.*)
5. Notify the owner and/or agent of any noncompliance or failure to certify, as required

by the IRS.

6. Report to the Internal Revenue Service all noncompliance via Form 8823 (*See [Exhibit E2](#)*) within 45 days of the end of the owners correction period regardless of whether or not the noncompliance was corrected.
7. Retain compliance records as per the IRS Procedure for Monitoring Compliance.
8. Provide owners and/or agents with applicable rules and regulations and notice of program changes throughout the compliance period. *However, it is the owner's ultimate responsibility to ensure that the project complies with all program requirements regardless of whether the Agency sent a notice regarding changes.*
9. When scheduling permits, provide owners/agents with at least one compliance training per year.

#### **Owner/Managing Agent Responsibilities**

Each building owner has chosen to utilize the Low Income Housing Tax Credit Program and take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met throughout the compliance period that will ensure the continuance of the tax credit.

*Although an owner may have a managing agent acting on his or her behalf, the owner is ultimately responsible for ensuring compliance with all applicable low income housing tax credit regulations and rules. In selecting a managing agent, the owner should ensure that the agent and all on-site personnel are knowledgeable of the provisions and requirements of the tax credit program and have adequate experience in managing a tax credit project.*

The owner/agent must:

1. For projects that received an allocation of tax credits prior to 2001, pay an annual or one-time compliance monitoring fee to cover the cost of the Agency's review. For projects that received an allocation post 2000, pay an allocation/issuance fee to cover the cost of the Agency's review.
2. Submit to the Agency a copy of IRS Form 8609 (*See [Exhibit E1](#)*) with Part II completed, once filed with the Internal Revenue Service for the first year of the credit period.
3. Income qualify each tenant household by collecting income documentation and have that tenant sign a move-in certification (*See Chapter 4, Certifying Annual Income, and [Exhibit C1](#)*). Annually, requalify each tenant by collecting current income documentation and have them sign a recertification.
4. Meet minimum set-aside within the required time frame. If a project fails to meet the minimum set-aside by the end of the first credit year, the owner may be subject to full recapture of the tax credits.



5. For projects that were allocated credits based on the agreement to serve a special needs population and/or the provision of social services, within sixty (60) days of 100 percent occupancy must provide documentation to the Agency that the project is serving a special needs population or reasonable attempts have been made to serve a special needs population and/or all social services are in place.
6. Annually submit the Owners Certificate of Continuing Program Compliance (*See [Exhibit B1](#)*) to the Agency which requests that you certify, under penalty of perjury, that for the preceding twelve (12) month period all requirements of the Low Income Housing Tax Credit Program have been met.
7. For projects that were allocated credits based on the agreement to serve a special needs population and/or the provision of social services, annually submit to the Agency, a Annual Project Certification for Projects with a Special Needs Component and Social Service Model (*See [Exhibit B2](#)*).
8. Annually, submit to the Agency, a Building Status Report (*See [Exhibit B3](#)*), which asks for certain tenant income and rent information for the preceding twelve (12) month period.
9. Make available to Agency personnel, upon request, annual tenant income certifications/recertifications, supporting income documentation, rent rolls, social service agreements/contracts and other information that the Agency deems necessary to monitor compliance and facilitate the Agency's compliance review (*See [Exhibit D9](#)*).
10. Upon request, accompany Agency personnel on a physical inspection of the housing development.
11. Ensure that the housing development is properly administered at all times and is suitable for occupancy, taking into account state (see "Chapter 10, Maintenance of Hotels and Multiple Dwellings Regulations, N.J. Department of Community Affairs"), local health, safety and building codes.
12. Retain and maintain records demonstrating the project's compliance for each year of the compliance period
13. Keep the Agency informed of any changes affecting the development, such as project ownership and/or management during the compliance period, change in address of owner or management, etc.

NOTE - Owners of buildings/projects that have received tax credits are required to inform the NJHMFA of the sale of any building(s) which takes place during the compliance period, within thirty days of the ownership change. The owner should specify the following information:

- Project Address
  - Original Owner
  - New Owner
  - New Owner Tax Identification Number
  - If project was not sold in its entirety, please explain.
  - Date of transfer.
  - State whether a bond has been posted.
14. Notify the Agency immediately if the development is not in compliance with the tax credit program requirements.
  15. Take action to correct any incidents of noncompliance within the required time frame. The Agency must report to the IRS any violation of the requirements of the low income housing tax credit program. Failure to correct within the time specified by the Agency may result in the loss of tax credits.
  16. Submit on an annual basis by May 1 a copy of the project's audited financial statement for the prior fiscal year.

***Certification by the Owner (See Owners Certificate of Continuing Program Compliance, [Exhibit B1](#))***

The owner/agent of a low income housing project must certify, under penalty of perjury, annually to the Agency for each year of the compliance period that for the preceding twelve (12) month period:

- 1) The project met the requirements of the 20-50 test under Section 42(g)(1)(A), (20% or more of the residential units are both rent restricted and occupied by individuals whose income is 50% or less of the area median gross income as adjusted for family size); or the 40-60 test under Section 42(g)(1)(B), (40% or more of the residential units are both rent restricted and occupied by tenants whose income is 60% or less of the area median gross income as adjusted for family size, whichever minimum set-aside test was applicable to the project. The project also met the requirements of the 40-50 test under Section 42(i)(2)(E)(i) (for buildings receiving HOME assistance 40% or more of the residential units are occupied by individuals whose income is 50% or less of the area median gross income as adjusted for family size); and if applicable to the project, the 15-40 test under Sections 42(g)(4) and 42(d)(4)(B) for “deep rent skewed” projects.
- 2) There was no change in the applicable fraction of any building in the project (Section 42(c)(1)(B), or that there was a change and a description of the change. Any change in the applicable fraction that results in a decrease in the qualified basis of the project is considered to be noncompliance that must be reported to the IRS.
- 3) The Owner received an annual income certification on each low income tenant, and documentation to support that certification; or in the case of a tenant receiving Section 8 Housing Assistance Payments, a statement from a public housing authority that the tenant's income does not exceed the applicable limits under federal regulations. For an exception to the portion of this requirement regarding supporting documentation, see section 42(g)(8)(B)

of the Code which provides a special rule for a 100 percent low-income building. (See also, [Exhibit D3](#))

- 4) Each low income unit in the project was rent restricted under Section 42(g)(2).
- 5) All units in the project were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under Section 42(i)(3)(B)(iii)).
- 6) Each building in the project was suitable for occupancy, taking into account state, local health, safety and building codes.
- 7) There was no change in the eligible basis of any building in the project, or if there was a change, the nature of the change (as defined in Section 42(d), e.g. a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge). As stated earlier, any change in the eligible basis that results in a decrease in the qualified basis of the project is considered to be noncompliance and must be reported to the IRS.
- 8) All tenant facilities included in the eligible basis under Section 42(d) of any building in the project such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building.
- 9) If a low income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income.
- 10) If the income of tenants of a low income unit who previously were verified to be income eligible increases to above 140 percent of the applicable limited allowed in Section 42(g)(2)(D)(ii), that unit may continue to be counted as a low income unit as long as the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income.
- 11) That an extended low-income housing commitment as described in Section 42(h)(6) of the Code was in effect for buildings subject to Section 7108-(c)(1) of the Revenue Reconciliation Act of 1989, including the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. In addition, that owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provision, including any special provisions, as outline in the extended low-income housing commitment;
12. That no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for the project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development, 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court;

13. That if the owner received its credit allocation from the Nonprofit set-aside (Section 42(h)(5) of the Code), that the non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code; and
14. That there has been no change in the ownership or management of the project, or that there was a change and a description of the change.

## **Monitoring Fee**

***For projects that received an allocation prior to 2001, the Agency charges a fee to cover the cost of monitoring each project's compliance with the tax credit program. The owner/agent must elect one of the following payment options and send a payment no later than January 31 of the year following the year the project placed in service:***

One-Time Fee	\$625 per low income unit
Annual Fee	\$60 per low income unit

If an owner/agent elects the annual fee, the annual payment will be due on January 31 of each year of the compliance period. The Agency may find a project out of compliance for nonpayment of the monitoring fee. Such noncompliance will be reported to the Internal Revenue Service.

***For projects that received an allocation post 2000, the Agency charges a allocation/issuance fee to cover the cost of monitoring each project's compliance with the tax credit program.***

The monitoring fee is waived for projects with permanent financing from the Agency because the Agency collects a fee from these projects.

## **Owner/Agent Recordkeeping**

Owners/agents are required to keep records for each qualified low income building in the project which will show for each year of the compliance period the following information:

- 1) The total number of residential rental units in the building, including the number of bedrooms and the square footage of each residential rental unit.
- 2) The percentage of residential rental units in the building that are low income.
- 3) The rent charged on each residential rental unit in the building, including any utility allowances.
- 4) The number of occupants in each low income unit, but only if rent is determined by the number of occupants in each unit under Section 42(g)(2)(as in effect before the Revenue Reconciliation Act of 1989).

NOTE - Prior to the passage of the Revenue Reconciliation Act of 1989, maximum allowable rent for a low-income unit was determined by the actual size of the family occupying the unit. Section 42(g)(2) states that a unit is rent restricted if the gross rent does not exceed 30 percent of the income limitation applicable to such unit. Therefore, the maximum allowable gross rent varied based on the number of individuals occupying the unit. Those projects receiving an allocation of tax credits prior to 1990 could make an election to continue using family size in determining maximum allowable rent, or could elect the apartment size (number of bedrooms) method. This election had to be made by February 7, 1994 and only affects any households first occupying any of the units after the date of this election. Managing agents should check with the owner or the Agency to

determine whether an election was made so that rents could be calculated correctly. (See [Exhibit D7](#))

- 5) The low income unit vacancies in the building and information that shows when and to whom the next available units were rented .
- 6) The annual income certification of each low income tenant per unit.
- 7) Documentation to support each low income tenant's income certification (i.e., a copy of the tenant's federal income tax return, W-2 form or income verification from third parties such as employers or state agencies paying unemployment compensation). Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937, not in accordance with the determination of gross income for federal income tax liability (See [Exhibit D11](#)).

In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under Section 42(g). (See [Exhibit C10](#))

For an exception to this requirement, see section 42(g)(8)(B) which provides a special rule for a 100 percent low-income building. (See [Exhibit D3](#))

- 8) The eligible basis and qualified basis of the building at the end of the first year of the credit period.
- 9) The character and use of the non-residential portion of the building included in the building's eligible basis under section 42(d) (i.e., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

#### ***Owner/Agent Record Retention***

- 1) Owners/agents are required to retain the records described above for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year.
- 2) The records for the first year of the credit period, however, must be retained for the entire compliance period plus six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building (21 years total).

Therefore, records for the first year of the compliance period must be retained for twenty-one (21) years. Records for each year thereafter must be retained for six (6) years after filing the federal income tax return for that particular year.

***Record Retention by the Agency***

The Agency must retain records of noncompliance or failure to certify for a minimum of six (6) years beyond the Agency's filing of the IRS Form 8823 (See [Exhibit E2](#)). In all other cases, the Agency must retain the certification and records submitted by the owner for three (3) years from the end of calendar year in which they were received by the Agency.

***Notification of Noncompliance***

Upon determination by the Agency of noncompliance with Section 42 of the Internal Revenue Code or other relevant rules and regulations (e.g., the Agency does not receive the annual certification, fee and supporting documentation described above or does not receive or is not permitted to inspect the tenant records when requested or discovers by inspection or in some other manner that the project is not in compliance), the Agency will give prompt written notice to the owner/agent of the violation. The owner/agent will then be given up to ninety (90) days from the date of the notice to correct the violation. The Agency may extend the correction period for an additional six months if the Agency determines there is reasonable basis to grant such an extension. Ultimately, the *owner* (not the managing agent) will be held liable for instances of non-compliance and the correction of such deficiencies.

Within forty-five (45) days of the end of the correction period, the Agency will notify the IRS via Form 8823 (See [Exhibit E2](#)) of the noncompliance and report whether the owner has or has not corrected the violation.

**Agency Notice**

The following schedule outlines the amount of time the Agency will give under certain circumstances. *Please be aware that the Agency reserves the right to give less notice or no notice under circumstances where the Agency deems necessary, such as when the health and safety of the tenants residing in the building may be jeopardized.*

**Circumstance**

\*A project is chosen as part of the Agency's one-third requirement and will undergo a file review and a physical inspection

\*The Agency notifies an owner/agent that the project is in compliance or out of compliance.

\*The Agency gives an owner/agent time to correct any noncompliance.

\*The Agency must report the noncompliance to the IRS via Form 8823.

**Notice**

The Agency will give a minimum of ten (10) days notice.

The Agency will notify an owner of any compliance or noncompliance within forty-five (45) days of the determination.

The Agency will give a minimum of thirty (30) days to correct a noncompliance.

The Agency will notify the IRS within forty-five (45) days of the end of the owner's correction period as to the noncompliance and whether or not it has been corrected.



### ***Due Dates***

\* Owner's Certificate of Continuing Program Compliance, Annual Project Certification for Special Needs Component and Social Service Models, and the Building Status Report

Due January 31 of each calendar year.

\* Payment of the Monitoring Fee

Due January 31 of each calendar year.

\* Submission of the Form 8609 with Part II completed by the owner (*See [Exhibit E1](#)*).

Due thirty (30) days from the date of the owner's first filing of the form with IRS.

\* Provide evidence to the Agency that a special needs population is being served and/or all social services are in place.

Prior to issuance of Form 8609 and when audited.

\* The Agency's thirty-three (33) percent review requirement.

Begins on or around March 1 of each calendar year.

\* Keep the Agency informed of any changes affecting the development, such as project ownership and/or management during the compliance period, change in address of owner or management.

Thirty (30) days from the date of the change.

\* Request Agency review for waiver of the recertification requirement.

Deadline for request January 31 of each calendar year. Agency will review as of December 31 of the prior year.

\* Submission of audited financial statement for the prior fiscal year, including a detailed income and expense schedule and vacancy rate calculation.

Due May 1 of each calendar year.

## CHAPTER 2

### TAX CREDIT COMPLIANCE BASICS

This section of the manual defines and describes common terms of the tax credit program, particularly those associated with compliance. For terms not identified in this section, please consult Section 42 of the Internal Revenue Code (See [Exhibit D10](#)).

#### **Applicable Fraction**

The "applicable fraction" is the *lesser* of the following: the actual percentage of low income units in the development or the actual percentage of residential square feet occupied by low-income tenants which the owner has reserved for low-income tenants. Depending on the set-aside option elected, the applicable fraction will be either a *minimum* of 20 or 40 percent. The owner may choose to impose a more stringent set-aside requirement for the project. If this is the case, the applicable fraction (which would be higher than 20 or 40 percent and may be 100 percent) must be met throughout the compliance period. For example, if a project has chosen the 20-50 minimum set-aside and a 100 percent applicable fraction, then 100 percent of the project must be rent-restricted and occupied by tenants earning 50 percent or less of the area gross median income.

The applicable fraction is memorialized within the Deed of Easement and Restrictive Covenant. If the managing agent is unsure of the applicable fraction which must be met throughout the compliance period, the agent should contact the owner. This is important because the managing agent must ensure that the proper number of apartments are rented and re-rented to low income tenants. In many cases, the applicable fraction is 100 percent and all units must be rented and re-rented to low income tenants.

#### **SPECIAL NOTE FOR MANAGERS' UNITS:**

For buildings placed in service after September 9, 1992, a unit occupied by a full-time resident manager may be included in the eligible basis of the building. However, the unit is excluded from both the numerator and denominator of the applicable fraction. For instance, if a building contains 100 units with 99 occupied by low income tenants and 1 occupied by a resident manager, the applicable fraction would be 99/99 or 100 percent (*not* 99/100 or 99 percent). See IRS Ruling 92-61 ([Exhibit D2](#)) for details.

#### **Buildings Having 4 or Fewer Units**

Generally, in the case of any buildings having four (4) or fewer residential rental units, no unit in such building shall be treated as a low income unit if the units in such buildings are owned by any individual who occupies a residential unit in such building or any person who is related to such individual.

However, owner-occupied buildings acquired or rehabilitated pursuant to a development plan sponsored by a nonprofit organization or by a state or local government may be eligible. The ratio of all low-income units in the building cannot exceed eighty (80) percent. In the case of such building, any unit which is not rented for ninety (90) days or more shall be treated as occupied by the owner of the building as of the first day it is not rented. (Section 42(i)(3)(E))

**Building Identification Number (BIN)**

This number is assigned to each building in a project that received an allocation of tax credits. An owner/agent can check Part I of the Form 8609 to ascertain the BIN the Agency assigned to a tax credit building (See [Exhibit E1](#)).

**Compliance Period**

For projects that received a tax credit allocation prior to January 1, 1990, the compliance period is fifteen (15) years. Projects receiving a tax credit allocation after January 1, 1990 must comply with the eligibility requirements for a minimum term of fifteen (15) years and an extended-use period of fifteen (15) years. This thirty (30) year affordability period is stipulated within the recorded Deed of Easement and Restrictive Covenant.

Projects that received a tax credit allocation from 1994 and later may have compliance periods and extended-use periods that are longer than fifteen years. This means that the period of affordability may run beyond thirty (30) years.

The compliance period begins with the first taxable year of the credit period, which is the year the project places in service or the following year.

**Credit Period**

The credit period is the period of ten (10) taxable years beginning with the taxable year in which the building is placed in service. Or, if the owner made the election (on the Form 8609) to begin the credit period in the following taxable year, the credit period is the period of ten (10) taxable years beginning with the following taxable year. *(It is recommended that an owner seek professional guidance (from their lawyer and accountant) to determine when the first year of the credit period should be.)*

**Deep Rent Skewing**

For projects that made this election on the Form 8609 (See [Exhibit E1](#)), at least 15 percent of the units must be both rent restricted and occupied by individuals whose income is 40 percent or less of the area median gross income. This is in addition to meeting the minimum set-aside.

**Form 8609**

This form (See [Exhibit E1](#)) is the official IRS form which show the tax credits that a building has been allocated by the Agency. Part I of the form is completed by the Agency and filed with the IRS. The Agency then mails a copy of the form to the owner. The owner completes Part II of the form and files the completed form with the Internal Revenue Service for the first year of the credit period.

The owner then has thirty (30) days from the filing date to send the Agency's compliance staff a copy with Parts I and II complete. The Form 8609 must be retained with the project files.

**Form 8823**

This form (See [Exhibit E2](#)) is the official IRS form that must be filed by the Agency when a building has been found out of compliance. It is filed by the Agency no later than forty-five (45) days from the end of the correction period.

**Form 8611**

This form (See [Exhibit E3](#)) must be filed by the tax payer when credits must be recaptured by the IRS as a result of noncompliance.

**Full-time Students**

In many cases, students are not eligible to occupy low-income units. Very specific conditions apply in order for a student to be deemed eligible. Full-time student should be defined by the institution in which the student is attending. Students may qualify as low-income tenants only under the circumstances identified below:

Eligible:

1. A student married to a non-student;
2. A married student that is filing a joint tax return may reside with another married or unmarried student;
3. A married couple with children, where the entire household is full-time students;
4. Single students that are recipients of Title IV Aid for Families with Dependent Children (AFDC) benefits or Job Training Partnership Act (JTPA) benefits;
5. (For projects receiving credits on or after 8/10/93) A single-headed family where all are full-time students, but no one is a recipient of AFDC benefits and where no one in the unit is a dependent of an individual not in the household.

Students may not qualify as low-income tenants under the following circumstances:

Not Eligible:

1. Single, full-time students;
2. A household made up of unrelated, full-time students;
3. Married students not filing a joint income tax return.

Note - In all cases involving students, it is required that they maintain a household separate from their parents on a year-round basis, and that they are not reflected as a dependent upon their parents' tax returns. (Any financial subsidies from parents to students may have an impact on eligibility to occupy a low-income unit.)

**HOME Funds**

For projects with HOME funds that received the nine (9) percent tax credit, 40 percent or more of the residential units must be both rent-restricted and occupied by individuals whose income is 50 percent or less of the area gross median income. This is in addition to meeting the minimum set-aside.

**Key Lease Provisions**

The Agency recommends that owners/managers insert the following list of provisions into their leases. Although these revisions are not required, they may be helpful to ensure tenant compliance with tax credit requirements.

1. Explain that the building has low income housing tax credits and under that program all tenants must be income certified to live in the building. In addition, all tenants must be annually recertified.
2. Include a requirement that states that each tenant must comply with the income certification rules.
3. Include a provision that allows you to increase rents should the area gross median income limits increase, subject to thirty (30) day notice.
4. Explain that any tenant that lies or commits some act of fraud in the certification/recertification process may be evicted.
5. Explain that all heads of households are ultimately responsible for the action of the other members of their household.
6. Advise tenants to give notice of any change in income.
7. Advise tenants that illegal activities are not permitted in the building.
8. Require that the environment be quiet and peaceful to the tenants residing in the building and any disturbance would not be tolerated.
9. Explain that any violation of the lease may constitute grounds for eviction.
10. Advise tenants of the availability of child window guards.
11. Advise tenants regarding the maintenance and regulations of smoke detectors and carbon monoxide detectors.

**Minimum Set Aside**

At the time of application for the tax credit, the owner of the project must choose one of two minimum set-aside requirements. This election once memorialized within a Deed of Easement and Restrictive Covenant (which is filed by the Agency with the appropriate municipality or county) and once elected on the IRS Form 8609 (*See [Exhibit E1](#)*) (which has been filed with the IRS as well as with the Agency) is irrevocable. If the managing agent is unaware of which set-aside requirement must be met, he/she should contact the owner.

The set-aside is the *minimum* number of units that must be rent restricted and reserved for low income tenants in order for a building to be considered a qualified low income building. Pursuant to the Code, the set-aside options are:

1. 20% or more of the residential units are both rent-restricted and occupied by individuals whose income is 50% or less of the area median gross income as adjusted for family size; OR
2. 40% or more of the residential units are both rent-restricted and occupied by individuals whose income is 60% or less of the area median gross income as adjusted for family size.

### ***Minimum Set-Aside Deadlines***

For projects receiving an allocation between 1987 and 1990, the minimum set-aside must be met within twelve (12) months of the date the building was placed in service. For projects receiving credits in 1991 and later, the minimum set-aside must be met by December 31 of the year the project placed in service, if credits are to be claimed for that year. If the start of the credit period is deferred until the following year, the minimum set-aside must be met by December 31 of the following year.

Once the minimum set-aside is met, it must be maintained for the entire compliance period. In addition to meeting the minimum set-aside, you may also be required by your syndicator/investor to achieve a certain percentage of occupancy within a certain time frame. The Agency recommends that you consult your accountant and syndicator/investor with regard to this issue.

### ***Noncompliance***

Any violation of Section 42 of the Internal Revenue Code, IRS revenue procedures, revenue rulings, letter rulings, notices, announcements, any applicable Treasury regulations and any applicable federal law as well as the Agency review requirements for monitoring compliance.

The Agency must monitor for compliance with Section 42 all buildings that received an allocation of tax credits. Any noncompliance identified by the Agency must be reported via Form 8823 to the IRS regardless of whether an owner corrects the noncompliance (See [Exhibit E2](#)).

### ***Noncompliance Examples***

Noncompliance may include, but is not limited to the following examples:

1. Failure to submit a completed Owners Certificate of Continuing Program Compliance and Building Status Report and when applicable the Annual Project Certification for Projects with Special Needs Component and Social Service Models by the Agency's deadline;
2. Failure to pay a compliance monitoring fee;
3. Violations of local and State health, safety and building codes;
4. Failure to certify tenants at move-in or recertify tenants annually;
5. Failure to collect back-up documentation to support certifications/recertifications;
6. Charging rents that exceed the maximum tax credit rent permitted;
7. Calculation errors which could lead to accepting a tenant whose income exceeded the

maximum limit or charging too much rent;

8. Failure to certify Section 8 tenants or failure to obtain information from the Public Housing Authority or the DCA office that provides the Section 8;

9. Failure to meet minimum set-aside by the required time frame and failure to maintain minimum-set-aside;

10. Failure to comply with the Agency's procedures for monitoring compliance;

11. Any violation of Section 42 of the IRS.

### ***Nontransient Occupancy***

A unit will not be treated as a low income unit if it is used on a transient basis. A unit is deemed to be used on a nontransient basis if the initial lease term is at least six (6) months. The initial six (6) month term can be followed by a month-to-month rental term. SROs are permitted to operate on a month to month (30 days) basis.

### ***Nursing, Medical or Psychiatric Facilities***

Facilities that provide regular nursing, medical or psychiatric care are not considered residential rental units and therefore do not qualify for tax credits.

### ***Recapture of Tax Credits***

Non-compliance with tax credit statutes, rules or regulations may lead to recapture of the tax credit by the IRS with respect to the accelerated amount (one-third) claimed for all previous years. In other words, if a tax credit project is not maintained in compliance, no tax credit is available that year and previous years may be recaptured. *NOTE - Only the IRS can make a determination with regard to recapture of credits. The Agency's authority extends only insofar as reporting noncompliance to the IRS.*

Generally, recapture of tax credits applies if:

1. a tax credit building has been disposed of;
2. there is a decrease in the qualified basis of the building from one year to the next;  
(A decrease in qualified basis may occur when there is an elimination of units or some common area that was approved into basis during the original calculation of the tax credit. For example, two low-income units are destroyed by fire or a community room has been eliminated. In order that the owner may receive the expected tax credit on an annual basis the value of the original units or common area must be restored within a reasonable amount of time. Should the cost to restore such changes exceed the value, the sponsor is responsible for same and cannot collect any additional tax credits beyond the original allocation. Should the owner choose not to restore the building he/she will be subject to recapture.)
3. the building no longer meets the minimum set-aside requirement, the gross rent requirement or the other requirements for the units which are set aside.

Generally, recapture of tax credits does *not* apply if:

1. the disposition of a building was done in accordance with Section 42(j)(6)(*See also*

[Exhibit D6](#));

2. the decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowable in years after the year the building was placed in service; or
3. an incident of noncompliance was corrected within the correction period or within a reasonable amount of time after the noncompliance *should have been* discovered.

NOTE - Tenants cannot be evicted in order to return projects to compliance. Owners wishing to determine how the amount of recapture is arrived at should review Section 42(j) of the Internal Revenue Code.

### ***Residential Rental Units***

In order for a unit to be considered a residential rental unit it must contain separate and complete facilities for living, eating, cooking and sanitation. SROs are not required to meet this requirement.

***Social Service Model*** (Does not apply to projects that received allocations prior to 1995).

Project sponsors who received an allocation and who agreed in their application to provide social services will be monitored to ensure compliance with their application. Prior to the owner receiving their copy of the 8609, they must document to the satisfaction of HMFA that the services are in place. The project must continue to maintain such social services to the tenants throughout the compliance period and must certify annually to the provision of those services (see [Exhibit B3](#)). Appropriate documentation evidencing that the services are available to the tenants must be maintained along with the other project records, and will be inspected as part of the on-site audit. Executed contracts with Social Service Providers must be maintained and copies of such contracts must be available if requested by NJHMFA. Examples of other documentation include executed leases (if services are provided on-site), evidence of hiring a social service coordinator, evidence of tenant utilization of services, etc.

### ***Special Needs Populations***

(Does not apply to projects that received allocations prior to 1995) Project sponsors who received an allocation and who agreed in their application to reserve a specific percentage of the total units in the project for occupancy by a targeted special needs population and provide appropriate social services to the special needs tenants (the "special needs requirements"), will be monitored to ensure compliance with their application.

Prior to the owner receiving their copy of the 8609, they must document to the satisfaction of HMFA that the special needs requirements are in place. The project must continue to maintain the special needs requirements throughout the compliance period and must certify annually that they are in place (see Exhibit B-2). Appropriate documentation evidencing that the special needs requirements are in place must be maintained along with the other project records, and will be inspected as part of the on-site audit. Executed contracts with Social Service Providers must be maintained and copies of such contracts must be available if requested by NJHMFA. Examples of other documentation include executed leases (if services are provided on-site), evidence of hiring a social service coordinator, evidence of tenant utilization of services, project advertising, etc.



As HMFA will monitor for compliance with regard to the special needs requirements (since project sponsors receive bonus points for special needs), owners must document and keep records of their marketing efforts (project advertising, written contact to appropriate special needs agencies/social service providers, etc.) and demonstrate to the satisfaction of HMFA that they fully intended to meet the special needs requirements. Although project sponsors are required to demonstrate that a market for the targeted population exists in the project's service area and then market the units to the targeted special needs population, there may be instances when there are no special needs tenants available to rent the units. In the event there are no special needs tenants to rent an existing unit vacated by a special needs tenant, the owner may rent to another qualified tenant as long as the next available unit is rented to a special needs tenant.

### ***Suitability of Residential Units for Occupancy***

Each building in a tax credit project must be suitable for occupancy, taking into account state, local health, safety and building codes. In addition, each building must have a Certificate of Compliance from the New Jersey Department of Community Affairs' (DCA) Bureau of Housing Inspection stating that the building meets the "Regulations for Maintenance of Hotels and Multiple Dwellings". In the event a new construction project has not yet received the Certificate of Compliance, the building must be registered with DCA so that it will be inspected.

If state or local officials have cited the building for health, safety and/or building code violations, the owner of the building is responsible for correcting the violations. Uncorrected violations may render the building or low-income units unsuitable for occupancy. Such violations may be considered noncompliance by the Agency which must be reported to the Internal Revenue Service.

Owners/managers should be aware and should comply with the Americans with Disabilities Act (ADA) and HUD Section 504 requirements.

### ***Transitional Housing***

A transitional housing unit, as defined under the Stewart B. McKinney Homeless Assistance Act, is deemed to be used on a nontransient basis if the unit contains sleeping accommodations, kitchen and bathroom facilities and is located in a building which is used exclusively to facilitate the transition of homeless individuals to independent living within a 24 month period, and in which a governmental entity or qualified nonprofit organization provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing (Section 42 (i)(3)(B)(iii)).

### ***Units for Use by General Public*** (See [Exhibit D4](#))

Pursuant to IRS Regulation 1.42-9(b), a residential rental unit must be available for use by the general public in order for the unit to be eligible for tax credits (See also, U.S. Department of Housing & Urban Development Handbook 4350.3, or its successor, for the federal definition and criteria for "use by the general public"). Preference to certain classes of tenants do not violate the general public use requirement as long as they do not violate HUD policy regarding nondiscrimination. Examples of preferences that *do not violate* the general public use requirement are preferences to the elderly, persons with disabilities, the homeless and transitional housing for the homeless. Examples of preference that *do violate* the general public use requirement are as follows: a residential unit that is provided by an employer for its employees, a residential unit is

provided to a specific group of people that are part of a social organization.

*Owners are advised that the general public use requirement in the IRS regulations is not clear with regard to preferences for municipal or regional residents. The Agency advises owners to be aware of Federal and State Fair Housing laws with regard to this issue. It is strongly recommended that owners not give preference to municipal residents when marketing and renting units as such practice has been challenged and found by the Supreme Court of New Jersey to violate the State Fair Housing Act. If a preference for residents of the region (a "COAH-designated" housing region) is being used, owners should be aware that mandatory federal preferences set by HUD must be considered before a regional preference. If the owner of a tax credit project is found by a governmental agency or court to have violated any Federal or State Fair Housing laws in renting the project, the Agency will find the project out of compliance and report such circumstance to the IRS.*

### **Vacant Units**

When a unit becomes vacant which was formerly occupied by a low-income household, it may continue to be treated as occupied by a qualified low income tenant for the purposes of the set-aside requirement, provided that the apartment is ready to be occupied, that the owner demonstrates that reasonable attempts are made to rent the unit to qualified low-income households and that no other unit of comparable or smaller size in the project is rented to nonqualifying (non low income) individuals.

### **Waiver of the Recertification Requirement for 100% Low Income Buildings**

A waiver of the annual income recertification requirement is available from the IRS for 100 percent low income buildings and must be requested by sending a formal request to the IRS by following the procedure outlined in this manual and by following Revenue Procedure 94-64 ([Exhibit D3](#)).

## CHAPTER 3

### **DETERMINING ANNUAL INCOME**

Pursuant to IRS Regulation 1.42-5 (b)(vii), tenant income must be calculated in a manner consistent with the determination of annual median gross income under Section 8 of the United States Housing Act of 1937 (*See also Exhibit D11*), not in accordance with the determination of gross income for federal income tax liability. This section of the manual outlines how annual income is calculated to determine tenant income eligibility, which is required prior to the tenant residing in a low income housing tax credit unit and every year thereafter for the compliance period and in the case of projects that have a Deed of Easement and Restricted Covenant, for the Extended Use Period.

In accordance with Section 8 regulations, annual income is the anticipated gross income from all sources to be received by the family head and spouse (even if temporarily absent) and by each adult individual member of the family (individuals 18 years and older) during the 12 months following the date of the certification or recertification. *Please note that the tax credit program does not consider adjusted income which is permitted under the Section 8 program. Adjusted income is the deduction of allowances, such as dependent, child care handicapped/disability, medical or elderly, from the gross income.*

#### ***Income Defined***

A. **Annual income INCLUDES** , but is not limited to:

1. **Personal Wages**                      The gross amount (before any payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation or personal services of all adults of the household, except that of full-time students in excess of \$480. (The student must meet the full-time requirement of the institution he/she is attending.)
2. **Business Income**                      Net income, salaries and other amounts distributed from a business including a family business) or from a profession.
3. **Social Security**                      The gross amount (before deductions for Medicare, etc.) of periodic social security payments. Includes payments received by adults on behalf of minors or by minors for their own support.  
NOTE - If Social Security is reducing a family's benefits to adjust for a prior overpayment, use the amount remaining after the adjustment for the overpayment. This is usually the "gross" amount reported on Social Security's verification form.
4. **Pensions/Annuity**                      The gross amount of annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts.

- 5. Lump-sum** Lump-sum payments received because of delays in processing unemployment, welfare or other benefits. This does not apply to lump-sum payments for the delay of the start of Social Security.
- 6. Unemployment/ Disability** Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay. Any payments that will begin during the next 12 months must be included.
- 7. Welfare Assistance** a. If the payment includes an amount specifically designated for shelter and utilities and the welfare agency adjusts that amount based upon what the family is currently paying for shelter and utilities, special calculations are required.
- b. If the welfare agency is reducing a family's benefits to adjust for a prior overpayment, use the amount remaining after the adjustment for the overpayment. This is usually the "gross" amount reported on the welfare agency's verification form.
- 8. Alimony/ Child Support** Alimony and child support, unless exclusion of these amounts is justified.
- 9. Assets** Interest, dividends and other income from net family assets (including income distributed from trust funds). On deeds of trust or mortgages, only the interest portion of the monthly payments received by the applicant is included.
- 10. Adoption Assistance Payments** Adoption assistance payments up to \$480. The balance is excluded.
- 11. Lottery** Lottery winnings paid in *periodic* payments. (Winnings paid in a lump-sum are included in net family assets, not in Annual Income.)
- 12. Gifts** *Recurring* monetary contributions or gifts regularly received from persons not living in the unit. (Includes rent or utility payments regularly paid on behalf of the family.)
- 13. ICF/MR** For Intermediate Care Facilities for the Mentally Retarded (ICF/MR) where Medicaid pays the ICF/MR directly for services and rent and pays the tenant only a small personal allowance (e.g.\$35), annual income must include:

- a. The SSI payment the tenant would receive if he/she were not living in a group home; AND
  - b. All income the tenant receives from sources other than SSI (e.g., wages, training workshops, interest income, etc.).
- The personal allowance received by tenants in ICF/MR facilities must not be included in the income calculation.

**14. Resident Stipends** Resident service stipends that are more than \$200 per month. You must include the entire amount.

**B. Annual Income EXCLUDES :**

**1. Dependent Income** Employment income of children (including foster children) younger than 18.

**2. Full-time Students** Employment of full-time students 18 and older in excess of \$480 (except head of household and spouse).

**3. Meals on Wheels** Meals on Wheels or other programs that provided food for the needy; groceries provided by persons not living in the household.

**4. Certain Grants** Grants or other amounts received specially for:

- a. Auxiliary apparatus for a handicapped person;
- b. Expenses for attendant care, provided that the attendant is someone other than a family member living in the household;
- c. Medical expenses;
- d. Set aside for use under a Plan to Attain Self Sufficiency (PASS) and excluded for purposes of Supplemental Security Income (SSI) eligibility;
- e. Out-of-pocket expenses for participation in publicly assisted programs and only to allow participation in these programs. These expenses include special equipment, clothing, transportation, child care, etc.

NOTE - Grants for items a and b are excluded regardless of whether the care/apparatus results in increased employment income.

**5. Nonhousehold Members** Income associated with persons that live in the unit but are not regular household members. Includes:

- a. Payments received for care of foster children or foster adults;
- b. Income of live-in attendants.

<b>6. Mortgage Principal</b>	The principal portion of the payments received on mortgages or deeds of trust.
<b>7. Student loans</b>	The full amount of student financial assistance paid directly to the student's educational institution.
<b>8. Lump-Sum Additions</b>	Lump-sum additions to family assets - such as inheritances; cash from sale of assets; one-time lottery winnings; insurance settlements under health and accident insurance and workmen's compensation; settlement for personal or property losses.
<b>9. Temporary Income</b>	Temporary, non-recurring or sporadic income (including gifts).
<b>10. Gov. Rent Credits/ Rebate</b>	Annual rent credits or rebates paid to senior citizens by government agencies.
<b>11. Hazardous Duty Pay</b>	Hazardous duty pay to a family member in the military who is exposed to hostile fire.
<b>12. Training Program Assistance</b>	Payments received under training programs funded by HUD (Comprehensive Improvement Assistance Program).
<b>13. Resident Stipends</b>	Resident services stipends of \$200 per month or less. You may exclude more than one stipend per household, but you may not exclude more than one per household member.
<b>14. Refunds or Rebates</b>	Refunds or rebates under state or local law for property taxes paid on a dwelling unit.
<b>15. Reparation Payments</b>	Reparation payments from foreign governments in connection with the Holocaust.
<b>16. SSI Lump Sum</b>	Deferred periodic payments of SSI and Social Security benefits that are received in a lump sum.
<b>17. Training Programs</b>	Compensation from State or local employment training programs and training of a family member as resident management staff.
<b>18. Adoption Assistance</b>	Adoption assistance payments in excess of \$480 per adopted child.
<b>19. Homecare Payments</b>	Payments made by the State for a person with a developmental disability to offset the cost of services and equipment needed to allow the person to live in a unit, rather than an institution.

**20. Income excluded by  
Federal statute:**

Income excluded by Federal statute:

- a. The value of the allotment made under Food Stamp Act of 1977.
- b. Payments received under Domestic Volunteer Service Act of 1973 (employment through VISTA, retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions.)
- c. Payments received under Alaskan Native Claims Settlement Act.
- d. Payments from certain submarginal U.S. land held in trust for certain Indian tribes.
- e. Payments, rebates or credits received under Federal, Low-Income Home Energy Assistance Programs. Includes any winter differentials given to elderly.
- f. Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for native Americans and migrant and seasonal farm workers, Job Corps., veterans' employment programs, State job training programs, career intern programs.)
- g. Payments from disposal of funds of Grant River Band of Ottawa Indians.
- h. The first \$2,000 of per-capita shares received from judgments awarded by the Indian Claims Commission or the court of Claims or from funds the Secretary of Interior holds in trust for an Indian tribe.
- i. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs, or veterans benefits.
- j. Payments received under Title V of the Older Americans Act (Green Thumb, Senior Aides, Older American Community Service Employment Program).
- k. Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
- l. Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 9z Stat. 1785).
- m. The value of any child care provided or reimbursed for under the Child Care and Development Block Grant Act of 1990.
- n. Earned income tax credit.

### ***Converting Income to Annual Amounts***

- A. Use current circumstances to anticipate income, unless verification forms indicate an imminent change.
- B. All verified incomes must be converted to annual amounts.
  - 1. To annualize full-time employment, multiply:
    - o hourly wages by the number of hours worked/year (2080 for full-time employment with no overtime.)
    - o weekly wages by 52
    - o bi-weekly amounts by 26
    - o semi-monthly amounts by 24
    - o monthly amounts by 12.
  - 2. To annualize income from other than full-time employment, multiply:
    - o hourly wages by the number of hours the family expects to work annually
    - o average weekly amounts by the number of weeks the family expects to work
    - o other periodic amounts (monthly, bi-weekly, etc.) by the number of periods the family expects to work
  - 3. For persons paid on an annual basis, the annual wage should be used to cover the full 12-month period, regardless of the pay schedule. For example, if a teacher is paid \$15,000 a year, use \$15,000 whether the payment is made in 12 monthly installments, 9 installments or some other payment schedule.
- C. If a family indicates that income might not be received for the full 12 months (e.g., unemployment insurance), the owner should still annualize the income.

### ***Income of Dependents***

- A. Earned income of household members 18 years of age and older (except full-time students) **is counted**.
- B. Earned income of full-time students (except head of household and spouse) in excess of \$480 is **not** counted.



- C. Earned income of minors (household member 17 and under **is not** counted, unless that member is listed as the head, spouse or co-head.
- D. Benefits and other non-earned income paid directly to or on behalf of minors and full-time students **is** counted.
- E. Payments received for the care of foster children or foster adults **are not** counted, nor are adoption assistance payments in excess of \$480.

#### ***Income of Temporarily Absent Family Members***

- A. It should be determined if the absent person is still a member of the household and, if not, remove the individual from the lease and certification.
- B. The income of an absent person that is considered a family member **must be counted** even if the full amount is not available to the family.

#### ***Income of Confined Family Members***

In the case of a household member that is confined to a nursing home or hospital on a permanent basis, the family may elect to:

- A. Include the income of the family member; or
- B. Exclude the income.

#### ***Income from a Business***

- A. Owners **must include** salaries paid to adult family members, net income from the business, and other cash or assets withdrawn by any family member, except to that extent that the withdrawal is the reimbursement of cash or assets the family invested in the business.
- B. When computing net income, owners:
  - 1. may **not** deduct principal payments on loans, expenses for business expansion, or outlays for capital improvements;
  - 2. **may** deduct business expenses; interest payments on loans (unless the expenses or loans are for business expansion or capital improvement); and depreciation computed on a straight-line basis.

## ***Alimony and Child Support***

Count the amount specified in a divorce settlement or separation agreement unless the applicant:

1. certifies the income is not being provided; and
2. has made reasonable effort to collect the amounts due, including filing with courts or agencies responsible for enforcing payments.

## ***Net Family Assets***

A. Net family assets **INCLUDE** , but are not limited to:

1. **Savings/Checking** Cash held in savings and checking accounts, safety deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months.
2. **Trusts** Include the principal value of any trust available to the household. (Do not include irrevocable trusts - i.e., ones that no family member can control.)
3. **Property/Investments** Equity in real property or other capital investments. Include the current market value less:
  - a. any unpaid balance on any loans secured by the property; and
  - b. reasonable costs that would be incurred in selling the asset - penalties, broker fees, etc.
4. **Other Investments** Stocks, bonds, treasury bills, certificates of deposits, money market funds.
5. **IRS/Keogh** Individual Retirement Accounts, Keogh Accounts and similar retirement savings accounts. These are included because participation in such retirement savings accounts is voluntary and the holder has access to the funds, even though a penalty may be assessed
  - a. While an individual is employed, count only amounts the family can withdraw without retiring or terminating employment.
  - b. After retiring or terminating employment, count as an asset any amount the employee elects to receive as a lump-sum.
6. **Retirement/Pension Funds**
  - a. While the person is employed. Include only amounts the family can withdraw without retiring or terminating employment.
  - b. At retirement or termination of employment. *If benefits will be received in a lump sum, include the benefits in Net Family Assets. If benefits will be received through periodic payments,*

*include the benefits in annual income.*

**7.Lump Sum Receipts** Include inheritances, capital gains, one-time lottery winnings, settlements on insurance and other claims. *(Do NOT include lump sum receipts that must be counted as income.)*

**8.Personal Property** Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. An applicant's wedding ring and other personal jewelry are **not** considered assets.

**9.Assets Disposed  
Within 2 Years**

Assets disposed of within two years before effective date of certification/recertification. The amount counted as an asset is the difference between the cash value and the amount actually received.

- a. If the fair market value of the disposed assets exceeds the gross amount the family received by more than \$1,000, include the **whole** difference between the cash value and the amounts received. If the difference is less than \$1,000, ignore it.

Example: An elderly couple deeded their house to the daughter and the daughter paid them \$5,000 for it. Compute the cash value of the house and count as an asset for two years the difference between the cash value and the \$5,000.

- b. Do **not** consider assets disposed of for less than fair market value as a result of a foreclosure, bankruptcy, or a divorce or separation settlement.
- c. Do consider:
  - i. Assets put into trusts
  - ii. Business assets disposed of for less than fair market value.  
(Business assets are excluded from net family assets only while they are part of an active business.)
  - iii. Cash gifts
  - iv. property

- d. Verification of assets disposed of for less than fair market value is done by applicant certification ([\*See Exhibit C12\*](#)).

B. Net family assets **EXCLUDE** :

1. **Necessary personal property** (clothing, furniture, cars, etc.)

2. **Vehicles specially equipped for the handicapped**
3. **Interests in Indian trust land**
4. **Value of life insurance policies**
5. **Equity in the cooperative unit in which the family lives**
6. **Assets that are part of an active business.** (Income earned from such business is counted as income.)

NOTE - Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the applicant's/tenant's main occupation.

7. **Assets that are NOT effectively owned by the applicant,** ( i.e., when assets are held in an individual's name) but:
  - a. the assets and any income they earn accrue to the benefit of someone else; and
  - b. that other person is responsible for income taxes incurred on income generated by the assets.

Example: Assets held pursuant to a power of attorney because one party is not competent to manage the assets or assets held in a joint account solely to facilitate access to assets in the event of an emergency.

This should not be confused with joint ownership.

8. **Assets that are legally owned, but are not accessible to the applicant and provide no income to the applicant.**

Example: A battered spouse owns a house with her husband. Because of the domestic situation, she receives no income from the asset and cannot convert the asset to cash.

### **Valuing Assets**

In computing assets, owners must use the cash value of the asset - the amount the family would receive if the asset were converted to cash. Cash value is the market value of the asset minus reasonable costs that were or would be incurred in selling or converting the asset to cash.

Expenses which may be deducted include:

1. penalties for withdrawing funds before maturity
2. broker/legal fees assessed to sell or convert the asset to cash
3. settlement costs for real estate transactions

### **Assets Owned Jointly**

If assets are owned by more than one person, prorate the assets according to their percentage of ownership. If no percentage is specified or provided by State or local law, prorate the assets evenly among all owners.

### **Income from Assets**

Income from assets must be counted, even if the family does not directly receive the income.

A. If net family assets exceed \$5,000, Annual Income must include the **greater** of:

1. the actual income from assets OR
2. an imputed income from assets. Owners must impute income by multiplying total net family assets by the HUD passbook rate - currently 2.0 percent (.02). Owners/agents will be notified by the Agency if this rate changes.

B. If net family assets are less than \$5000, Annual Income must include the actual income from assets.

C. Sample 1 Calculation of Income From Assets

<u>Type of Asset</u>	<u>Cash Value of Asset</u>	<u>Actual Income Per Year</u>
Checking Account(6 month average)	\$ 300	0
Savings Account(current)	2,000	60
Certificates of Deposit	10,000	600
Rental Property	35,000	0
TOTALS	\$47,300	\$660

1. Since total assets exceed \$5,000, imputed income must be calculated:

Cash Value of Total Assets x .02:  $\$47,300 \times .02 = \$946$ .

2. Because \$946, the imputed income, is greater than \$660, the actual income, you must add \$946 to the total gross income

D. Sample 2 Calculation of Income From Assets

<u>Type of Asset</u>	<u>Cash Value of Asset</u>	<u>Actual Income Per Year</u>
Checking Account(6 month average)	\$ 300	\$ 0
Savings Account(current)	2,000	60
Certificates of Deposit	10,000	900
Rental Property	<u>35,000</u>	<u>0</u>
TOTALS	\$47,300	\$960

1. Since total assets exceed \$5,000, imputed income must be calculated:

Cash Value of Total Assets x .02:  $\$47,300 \times .02 = \$946$ .

2. Because \$960, the actual income, is greater than \$946, the imputed income, you must add \$960 to the total gross income.

## CHAPTER 4

### **CERTIFYING ANNUAL INCOME**

Applicants that apply for residence in a tax credit unit should be advised of the income restrictions mandated by the tax credit program. The income certification, income verification and annual recertification requirements should be explained to all tenants and should be included in the lease as a requirement for living in the building.

It is the owner's responsibility to certify and annually recertify each tenant that resides in all tax credit units. If there is a managing agent or some other entity certifying the tenants, owners should make sure that the managing agent or other entity has a good understanding of the tax credit program because the owner is ultimately responsible. It is recommended that the owner work with the person handling the certifications. *If any outside service, organization or Agency is handling the certification process, it should not be assumed that the certifications are in compliance. If an error is made by such entity that causes noncompliance the owner will be found out of compliance and reported to the IRS. NOTE -The fact that the owner may not receive this information from the tenant does not relieve the Agency of its obligation under federal law to monitor that project and advise the IRS of such noncompliance.*

This section of the manual provides information regarding the certification of tenant income.

#### ***Income Limitation***

In order to qualify as a low-income tenant, the household's annual income must be less than the maximum allowed. The income limit is based on a percentage of area median gross income as defined by HUD and takes into account household size. A household occupying a low income unit cannot have a combined income of more than 50% or 60% of the area gross median income, depending on the set-aside option elected by the building owner. *Exhibit A1* is an area gross median income chart which shows income by PMSAs and by number of persons in the household.

#### ***Tenant Income Certification***

For purposes of satisfying the set-aside requirements, the determination of the household's income must be made on the date the low-income tenants first occupy a residential unit in the development and on an annual basis thereafter. *In the case of a rehab project with existing tenants, the move-in certification must be done on the date the building placed in service.*

## **1. Tenant Interview**

Upon meeting with the tenant, review the lease and any provisions that involve the income certification procedure. Explain to the tenant that the tax credit program is an affordable housing program and that in order for a tenant to reside in the building, they must comply with the certification requirements. Explain to them that once they reside in the building they must continue to comply with the certification requirements and any other lease provisions. Finally advise the tenant that any instance of fraud will not be tolerated and will be subject to eviction.

## **2. Tenant Certification**

Each tenant must initially certify as to the level of anticipated annual income for each member of the household in order to verify eligibility as a low income resident. Have the tenant complete an income certification form (*See [Exhibit C1](#)*). The owner must receive an annual income certification from each low-income tenant, or, in the case of a tenant receiving Section 8 housing assistance payments, a statement from a public housing authority declaring that the tenant's income does not exceed the applicable income limit. Certifications should not be more than ninety (90) days old.

## **3. Verification of Income**

The owner/agent is required to verify each component of the household's reported income (i.e., wages, income from assets, social security payments) by collecting documentation to support each low-income tenant's income certification. Acceptable forms of supporting documentation are verifications of income from third parties such as employers or state agencies paying unemployment compensation (*See [Exhibit D8](#)*).

In the case of a tenant receiving housing assistance payments under Section 8, the owner/agent may obtain from the public housing authority a statement declaring that the tenant's income does not exceed the applicable income limit under Section 42(g) (*See [Exhibit C10](#)*).

Below is a summary of sample forms which are contained in the appendix. These sample forms are enclosed to show suggested formats and language in order to verify income. Owners/managers may use their own forms and establish their own procedures for verifying income, as long as all income is certified and verified.



#	EXHIBIT TITLE	DESCRIPTION
C1	<b>TENANT CERTIFICATION</b> (NJHMFA Form 9604)	To be completed by each household (all members of the household) to disclose all forms of income. In the case of a Sec. 8 tenant, a statement from the public housing authority must be maintained in the tenant files. The owner/agent should assist the tenant(s) by explaining the definition of Annual Income to ensure that proper disclosure is made.
C2	<b>INCOME VERIFICATION FROM EMPLOYER</b> (NJHMFA Form 9605)	Should be used to verify employment income for each tenant; to be completed by each employer.
C4	<b>VERIFICATION OF UNEMPLOYMENT BENEFITS</b> (NJHMFA Form 9607)	To verify unemployment benefits; to be completed by personnel from the unemployment office.
C5	<b>AFFIDAVIT OF NO INCOME</b> (NJHMFA Form 9608)	To be completed by any tenant, indicating that he/she is currently unemployed and not collecting any form of income (i.e., Social Security, unemployment, disability insurance, support from family, friend, etc.). Upon employment, tenant will notify the manager.

#	EXHIBIT TITLE	DESCRIPTION
<b>C6</b>	<b>VERIFICATION OF SUPPORT</b> (NJHMFA Form 9609)	To verify the amount of support received from a spouse, other family member or friend, if obtainable.
<b>C7</b>	<b>CONSENT FORM TO RELEASE SOCIAL SECURITY INFORMATION</b> (NJHMFA Form 9610)	To verify social security income; to be completed by the Social Security Administration.
<b>C8</b>	<b>VERIFICATION OF MILITARY PAY</b> (NJHMFA Form 9611)	To verify military pay, either for full or part time employment; to be completed by the personnel office or a commanding officer.
<b>C9</b>	<b>BANKING VERIFICATION</b> (NJHMFA Form 9612)	To verify assets on deposit (checking, savings, CDs, money markets, etc.) in a bank, savings and loan, etc.; to be completed by a banking officer.

#	EXHIBIT TITLE	DESCRIPTION
<b>C10</b>	<b>VERIFICATION OF INCOME ELIGIBILITY FROM SECTION 8 OFFICE</b> (NJHMFA Form 9613)	To verify income and other supporting documentation in lieu of obtaining it from the tenant.
<b>C11</b>	<b>CERTIFICATION OF ASSETS LESS THAN \$5000</b> (NJHMFA Form 9614)	Instead of verifying Net Family Assets of less than \$5000 by a third party verification (i.e., a banking verification), owners/agents may accept a signed, sworn statement from the tenant (See <a href="#">Exhibit D5</a> ). NOTE - Section 8 definition of Net Family Assets is used (24 CFR 813.102).
<b>C12</b>	<b>CERTIFICATION OF ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE</b> (NJHMFA Form 9615)	The tenant must certify as to the amount that an asset is worth when disposed of for less than fair market value for the certification/recertification periods two (2) years from the date of the disposal.
<b>C13</b>	<b>FULL TIME STUDENT ELIGIBILITY SELF AFFIDAVIT</b> (NJHMFA Form 9616)	The tenant must certify the number of full-time students residing in the household.

#### 4. Annual Income Recertification

Annually, after the initial income certification, the owner/agent must recertify the income for each low income tenant in the building by obtaining a new tenant Income Certification and supporting documentation. A waiver from the annual recertification requirement (below) is available from the IRS for buildings that received credits based on an applicable fraction of 100%. These buildings must maintain 100% of their units as low income. (See [Exhibit D3](#))

##### ***Waiver of the Recertification Requirement for 100% Low Income Buildings***

A waiver of the annual income recertification requirement is available from the IRS for 100 percent low-income buildings and must be requested by sending a formal request to the IRS. Except as otherwise provided in Revenue Procedure 94-64 ([Exhibit D3](#)), an owner of a 100 percent qualified low-income building who satisfies the requirements listed below may be granted the waiver from the IRS.

An owner applying for the IRS waiver must:

(1) Send a written statement signed under penalty of perjury to the Internal Revenue Service Center (P.O. Box 245, Philadelphia, PA 19255) that includes the following:

- (a) That the owner is applying for the annual income recertification waiver provided in Section 42 (g)(8)(B);
- (b) That the owner has obtained a statement from the Agency that each residential unit in the building was a low-income unit under Section 42 at the end of the most recent credit period for the building (*See below for the Agency's process to obtain the statement*);
- (c) That the owner understands that the Agency may continue to require an annual income recertification under the Agency's monitoring procedure and that the waiver does not exempt the owner from the recordkeeping and certification requirements of Section 1.42-5 for the verification of the annual income of a tenant upon the tenant's initial occupancy of any unit in the building; and
- (d) The building identification number (BIN) assigned to the building, the building or project name, the building or project address, and the owner's name and taxpayer identification number. This information should appear on the upper right hand corner of the statement.

(2) *Simultaneously, send a copy of the statement to the Agency; AND*

(3) Keep a copy of the statement with the building's records.

## ***NJHMFA Process to Obtain a Statement of Compliance with Section 42***

In order to receive the statement from the Agency required above in 1(b), the owner/agent should request the statement in writing. Requests are reviewed on a first-come, first-served basis and should be submitted to the Agency by the deadline set in this manual. All requests should include the following information:

1. The building or project name;
2. The building or project address;
3. The owner and managing agent's name and address;
4. The Agency LITC number;
5. That the owner will be applying to the IRS for the annual income recertification waiver provided in Section 42 (g)(8)(B);
6. That each residential unit in the building was a low-income unit under Section 42 at the end of the most recent credit period for the building; AND
7. Any other documentation the Agency deems necessary.

Upon receipt of the request for the statement from the Agency, the Agency will contact the owner/agent to schedule a physical inspection and review of the income certification and supporting documentation for each low-income unit in the building. (The Agency reserves the right to request that the income certification and supporting documents be submitted to the Agency for review.) The Agency must find a project to be 100 percent in compliance before a statement will be provided to an owner indicating that the project was in compliance for the prior calendar year.

Once the review has been completed, the Agency will notify the owner if the project is in compliance for the prior calendar year. Upon receipt of a copy of the waiver request statement sent to the IRS, the Agency will no longer request that the owner submit information regarding the existing tenants (*Subject to change, should the IRS rule on this issue.*). However, the Agency will still require that the owner complete all annual forms and be subject to an audit of the files for any new tenants that enter the building. The owner will also be subject to a physical inspection. If it is found that the project is out of compliance following the waiver request, the Agency will notify the IRS via Form 8823.

NOTE - The waiver of the recertification requirement does not exempt owners from submitting annual documentation regarding new tenants and does not exempt owners from paying a monitoring fee.

If the Agency determines that the project is not in compliance, the owner will be advised of the noncompliance in writing and at such time will not be eligible to submit a request to the IRS for the waiver. The owner can apply to the Agency for the necessary statement, after the project remains in compliance for one full year from the date of the last request. The Agency will schedule a review of the tenant files for a calendar year following the year that was already reviewed.

## CHAPTER 5

### **DETERMINING ALLOWABLE RENTS**

The gross rent charged by the owner/agent must comply with the owner's election of the minimum set-aside requirement - meaning that the gross rent must be affordable to tenants earning either 50% or 60% of the area gross median income. The definition of area gross median income is based on the HUD methodology used for the Section 8 program of the U.S. Housing Act of 1937. *Exhibits A1* contains the most recent income limits released by HUD (Limits are subject to change, check to see that you have the most recent). Gross rent does not include any payment under Section 8 or any comparable rental assistance program with respect to such unit or the occupants.

This section of the manual explains how rent is calculated under the tax credit program.

#### ***Projects Receiving Tax Credits Before 1990/ Household Size***

Maximum gross rent is based on *household* size for projects which received tax credits before 1990, unless the owner elected the bedroom size option (see below) by February 1994. The restricted rent is calculated by multiplying the applicable area gross median income limitation for the actual household size by .3 and then dividing by 12 to determine the monthly gross rent. Therefore, units of the same size may have different rents depending on the size of the family which resides there.

#### Pre - 1990 Formula:

$$\frac{50\% \text{ or } 60\% \text{ of Area Gross Median Income}^* \times 30\%}{\text{divided by 12 months}} = \text{Maximum Gross Rent}$$

\* Area gross median income is determined by the size of the household residing in the unit

Owners of projects receiving tax credits before 1990 had the option in 1994 to elect to calculate the rent based on unit size rather than household size (*See Exhibit D7*). Once made, this election of how rent will be calculated is irrevocable and can be used only for those tenants that move in after the date of the election. This means that the owner of a building that made this election will calculate the rents of existing tenants by household and future tenants by bedroom size. Managing agents should verify with the owner of the development which rent calculation is applicable.

#### ***Projects Receiving Tax Credits beginning January 1, 1990/ Bedroom Size***

Maximum gross rent is based on *unit* size for projects that received tax credits beginning January 1, 1990. The restricted rent is calculated by multiplying the applicable area gross median income limitation for a family size of 1.5 persons per bedroom by .3 and then by dividing by 12 to determine the monthly gross rent. In the case of efficiency units, the area gross median income should be based on 1 person. Therefore, all units of the same size have the same rent regardless of the household size.

### 1990 and Post 1990 Formula:

$$\frac{50\% \text{ or } 60\% \text{ of Area Gross Median Income}^* \times 30\%}{\text{divided by 12 months}} = \text{Maximum Gross Rent}$$

\* Area gross median income is determined by assuming 1.5 persons per bedroom

### **Utility Allowances**

Gross rent (regardless of which method of calculation is used) includes an allowance for all utilities which will be paid by the tenant. Utilities include heat, lights, air-conditioning, water, sewer, oil/gas but do not include telephone or cable television expenses. It is very important to use the correct allowance amount. See 26 CFR 1.42-10 Utility Allowances ([Exhibit D4](#)) and DCA's Monthly Utility Allowance ([Exhibit A2](#)) to determine the proper utility allowance. This regulation sets forth applicable utility allowances by categorizing projects into the following groups: (1) FmHA-assisted buildings, (2) Buildings with FmHA-assisted tenants, (3) HUD-regulated buildings, and (4) Other Buildings.

Owners should review this regulation to determine which building category they fall into. Buildings that are not Farmers Home assisted, nor a HUD-regulated building (as defined in the regulation) and where no tenant receives Farmers Home assistance fall into the category of "Other Buildings." These buildings have the option of obtaining a local utility company estimate for units in the building. If such estimate is obtained, that estimate becomes the appropriate utility allowance for all rent-restricted units of similar size and construction in the building.

If at any time during the compliance period or extended-use period, the applicable utility allowance changes, the new utility allowance must be used to compute gross rents of rent restricted units due 90 days after the change.

The applicable utility allowance *must* be subtracted from the maximum gross rent in order to determine the maximum rent allowed to be charged by the owner/agent to the tenant.

### **Sample Rent Calculations**

The examples below are for the purpose of guiding the owner/agent through the mathematical formulas used to figure maximum allowable rents. The owner/agent should be aware that the sample area gross median income limits used for these examples are based on HUD's figures (*See Exhibit A1*) and the utility allowance schedule provided by DCA (*See Exhibit A2*). Both are subject to change in future years.

A. Projects With Pre-1990 Tax Credits and No Election

1. Family of 4 living in a 2 bedroom, HUD-regulated duplex in Essex County. The minimum set-aside chosen by the owner was 20% at 50%, although 100% of the building is low income. The family is responsible for paying all its utilities (includes gas heat, hot water, cooking fuel and household electric), except water and sewer.

Median income - Family of 4	\$60,500
50%	<u>x .5</u>
Maximum Income	\$30,250
Affordability Control	<u>x .30</u>
Maximum Gross Rent - Annually	\$ 9,075
(Months in Year)	<u>÷ 12</u>
Maximum Gross Rent - Monthly	756
Utility Allowance - HUD	<u>- 98*</u>
Maximum Chargeable Rent	\$ 658

*HUD Allowances:	27	gas - heat
	+ 5	gas - cooking fuel
	+ 36	household electric
	+ 12	gas - hot water
	<u>+ 18</u>	trash collection
	98	

2. Family of 5 living in a 3 bedroom apartment in a HUD regulated, 2 story building in Middlesex County. The minimum set-aside chosen by the owner was 40% at 60%, although 100% of the building is low income. The family is responsible for paying all utilities which include gas heat, hot water, cooking fuel and household electric. Water, sewer and trash collection are included in the rent.

Median income - Family of 5	\$72,800
60%	<u>x .6</u>
Maximum Income	\$43,680
Affordability Control	<u>x .30</u>
Maximum Gross Rent - Annually	13,104
(Months in Year)	<u>÷ 12</u>
Maximum Gross Rent - Monthly	1,092
Utility Allowance - HUD	<u>- 88*</u>
Maximum Chargeable Rent	\$ 1,004

*HUD Allowances:	\$ 24	gas - heat
	+ 6	gas - cooking fuel
	+ 44	household electric
	<u>+ 14</u>	gas - hot water
	\$ 88	



B. Projects With Tax Credits after January 1, 1990

1. Family of 4 living in a 2 bedroom, HUD-regulated duplex in Essex County. The minimum set-aside chosen by the owner was 20% at 50%, although 100% of the building is low income. The family is responsible for paying its utilities, which include gas heat, hot water, cooking fuel, household electric and trash removal. Water and sewer are included in the rent.

Median income for 3-Person		
Household	\$54,400	
50%	<u>x .5</u>	
Maximum Income	\$27,200	
Affordability Control	<u>x .30</u>	
Maximum Gross Rent - Annually	\$ 8,160	
(Months in Year)	<u>÷ 12</u>	(2 BR @ 1.5 persons
Maximum Gross Rent - Monthly	680	per bedroom = 3 persons)
Utility Allowance - HUD	<u>- 98*</u>	
Maximum Chargeable Rent	\$ 582	
*HUD Allowances:	27	gas - heat
	+ 5	gas - cooking fuel
	+ 36	household electric
	+ 12	gas - hot water
	<u>+ 18</u>	trash collection
	98	

2. Family of 5 living in a 3 bedroom apartment in a HUD regulated, 2 story building in Middlesex County. The minimum set-aside chosen by the owner was 40% at 60%, although 100% of the building is low income. The family is responsible for paying heat, hot water, cooking fuel and household electric. Water, sewer and trash collection are included in rent.

Median income for 4.5 persons	\$70,100	
60%	<u>x .60</u>	
Maximum Income	\$42,060	
Affordability Control	<u>x .30</u>	(3 BR @ 1.5 persons
Maximum Gross Rent - Annually	12,618	per bedroom = 4.5 persons)
Maximum Gross Rent - Monthly	1,051	
Utility Allowance - HUD	<u>- 88*</u>	
Maximum Chargeable Rent	\$ 963	
*HUD Allowances:	\$ 24	gas - heat
	+ 6	gas - cooking fuel
	+ 44	household electric
	<u>+ 14</u>	gas - water heating
	\$ 88	

### ***Range of Affordability***

“Affordable” typically means capable of being afforded without undue burden by an eligible household. A rental unit is typically considered “affordable” if the monthly rent, including the estimated cost of utilities paid by the tenant (the utility allowance), does not exceed 30 percent of an eligible household income.

Rents for units in the tax credit program are established based on 30 percent of the maximum income that is eligible for a unit. Anyone earning less than the maximum income will be paying more than 30 percent of their income toward rent. While this is allowed in the tax credit program, it is not desirable. For this reason, the Agency recommends setting rents at levels below the maximums permitted, so that they are affordable to households earning less than the maximum income. By doing this, a project expands its range of affordability.

### ***Rents for Over-income Tenants***

If the income of a household increases above the applicable income limitation, the unit will continue to be treated as a low-income unit as long as the income of the occupants initially met the income limitation and the unit continues to be rent-restricted.

However, if the income of a current low income household increases above 140 percent of the applicable income limitation, the next available unit (of a comparable or smaller size) must be rented to a low-income tenant in order for the project to remain in compliance. Tenants should not be evicted if their income exceeds the maximum income limit. In this case, the unit cannot be counted as part of the minimum set-aside requirement, but it can continue to receive tax credits.

The tenant whose income increases above 140 percent of the applicable income limitation may receive a rent increase when their lease is renewed once the next available unit is rented to a low income tenant. The Agency recommends moderate annual increases in accordance with local rent laws, if applicable, and in accordance with restrictions mandated by other funding sources, if applicable (i.e., FmHA projects). If the project is 100 percent low-income, even if you rent the next available unit to a qualifying tenant and charge a restricted rent, the rent on the unit of the tenant whose income exceeded the limit must not exceed the maximum rent permitted.

NOTE - If the Deep Rent Skewing option was elected on the Form 8609 (See [\*Exhibit E1\*](#)), the tenant's income may go up to 170 percent of the area gross median income limit and still be eligible.

## CHAPTER 6

### APPENDIX

#### **A. Income and Rent Limitations**

- [Exhibit A1](#)      Area Gross Median Income Chart  
[Exhibit A2](#)      Exhibit A2 -DCA Section 8 Utility Allowance Schedule

#### **B. NJHMFA Annual Reports**

- [Exhibit B1](#)      Exhibit B1 - NJHMFA Form 9601 (Owners Certificate of Continuing Program Compliance)  
[Exhibit B2](#)      Exhibit B2 - NJHMFA Form 9602 (Annual Project Certification for Projects with a Special Needs Component)  
[Exhibit B3](#)      Exhibit B3-NJHMFA Form 9602(a) Annual Project Certification for Projects with Social Service Models  
[Exhibit B4](#)      Exhibit B4 - NJHMFA Form 9603 (Building Status Report)

#### **C. NJHMFA Sample Income Certification and Verification Forms**

- [Exhibit C1](#)      Exhibit C1 - NJHMFA Form 9604 (Tenant Certification)  
[Exhibit C2](#)      Exhibit C2 - NJHMFA Form 9605 (Income Verification from Employer)  
[Exhibit C3](#)      Exhibit C3 - NJHMFA Form 9606 (Verification of Termination of employment)  
[Exhibit C4](#)      Exhibit C4 - NJHMFA Form 9607 (Verification of Unemployment Benefits)  
[Exhibit C5](#)      Exhibit C5 - NJHMFA Form 9608 (Affidavit of No Income)  
[Exhibit C6](#)      Exhibit C6 - NJHMFA Form 9609 (Verification of Support)  
[Exhibit C7](#)      Exhibit C7 - NJHMFA Form 9610 (Consent Form to Release Social Security information)  
[Exhibit C8](#)      Exhibit C8 - NJHMFA Form 9611 (Verification of Military Pay)  
[Exhibit C9](#)      Exhibit C9 - NJHMFA Form 9612 (Banking Verification)  
[Exhibit C10](#)      Exhibit C10 - NJHMFA Form 9613 (Verification of Income Eligibility from Section 8 Office)  
[Exhibit C11](#)      Exhibit C11 - NJHMFA Form 9614 (Certification of Assets Less than \$5,000)  
[Exhibit C12](#)      Exhibit C12 - NJHMFA Form 9615 (Certification of Assets Disposed of for Less than Fair Market Value)  
[Exhibit C13](#)      Exhibit C13 - NJHMFA Form 9616 (Full Time Student Eligibility Self Affidavit)

#### **D. LITC Regulations and Rules**

- [Exhibit D1](#) -      IRS Final Regulations (Procedure for Monitoring Compliance with Low Income Housing Credit Requirements)  
[Exhibit D2](#) -      IRS Revenue Ruling 92-61 (Full-time Resident Manager's Unit)  
[Exhibit D3](#) -      IRS Revenue Procedure 94-64 (Waiver of Annual Income Recert.)  
[Exhibit D4](#) -      IRS Advance Notice 89-6 (Utility Allowance, General Public Use Requirement, Provision of Services)  
[Exhibit D5](#) -      IRS Revenue Procedure 94-65 (Documentation of Income from Assets when Assets do not exceed \$5000)

- [Exhibit D6](#) - Revenue Ruling 90- 60 (Recapture Bonds
- [Exhibit D7](#) - Revenue Procedure 94- 9 (Election to Determine Rents by Number of Bedrooms)
- [Exhibit D8](#) - Schedule of Acceptable Sources of Income Verification

- [Exhibit D9](#) - NJHMFA Audit List
- [Exhibit D10](#) - Internal Revenue Code, Section 42
- [Exhibit D11](#) - IRS Notice 88-80 (Income Determination)
- [Exhibit D12](#) - IRS Final Regulations (Available Unit Rule)
- [Exhibit D13](#) - IRS Final Amended Regulations (Compliance Monitoring)

#### ***E. IRS Forms***

- [Exhibit E1](#) - IRS Form 8609 (Low Income Housing Credit Agencies Allocation Certification, Schedule A: Annual Statement)
- [Exhibit E2](#) - IRS Form 8823 (Low Income Housing Credit Agencies Report of Noncompliance)
- [Exhibit E3](#) - IRS Form 8611 (Recapture of Low Income Housing Credit)

# EXHIBIT A1

STATE: NEW JERSEY PREPARED: 12-10-01			-----I N C O M E L I M I T S-----							
PROGRAM			1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
PMSA	: Atlantic-Cape May, NJ									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	10900	12450	14000	15550	16800	18050	19250	20500
INCOME:	51800	VERY LOW-INCOME	18150	20700	23300	25900	27950	30050	32100	34200
		LOW-INCOME	29000	33150	37300	41450	44750	48050	51400	54700
PMSA	: Bergen-Passaic, NJ									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	16550	18950	21300	23650	25550	27450	29350	31250
INCOME:	78900	VERY LOW-INCOME	27600	31550	35500	39450	42600	45750	48900	52050
		LOW-INCOME	38100	43500	48950	54400	58750	63100	67450	71800
PMSA	: Jersey City, NJ									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	12600	14400	16250	18050	19450	20900	22350	23800
INCOME:	60100	VERY LOW-INCOME	21050	24050	27050	30050	32450	34850	37250	39650
		LOW-INCOME	33650	38450	43250	48100	51950	55750	59600	63450
PMSA	: Middlesex-Somerset-Hunterdon,									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	18250	20900	23500	26100	28200	30300	32350	34450
INCOME:	90000	VERY LOW-INCOME	30450	34800	39150	43500	47000	50450	53950	57400
		LOW-INCOME	38100	43500	48950	54400	58750	63100	67450	71800
PMSA	: Monmouth-Ocean, NJ									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	14700	16800	18850	20950	22650	24350	26000	27700
INCOME:	69900	VERY LOW-INCOME	24450	27950	31450	34950	37750	40550	43350	46150
		LOW-INCOME	38100	43500	48950	54400	58750	63100	67450	71800
PMSA	: Newark, NJ									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	16550	18900	21250	23600	25500	27400	29300	31150
INCOME:	78700	VERY LOW-INCOME	27550	31500	35400	39350	42500	45650	48800	51950
		LOW-INCOME	38100	43500	48950	54400	58750	63100	67450	71800
PMSA	: Philadelphia, PA-NJ									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	13300	15200	17100	19000	20500	22050	23550	25050
INCOME:	63300	VERY LOW-INCOME	22150	25300	28500	31650	34200	36700	39250	41800
		LOW-INCOME	35450	40500	45600	50650	54700	58750	62800	66850
PMSA	: Trenton, NJ									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	15550	17800	20000	22250	24000	25800	27550	29350
INCOME:	74100	VERY LOW-INCOME	25950	29650	33350	37050	40000	43000	45950	48900
		LOW-INCOME	38100	43500	48950	54400	58750	63100	67450	71800
PMSA	: Vineland-Millville-Bridgeton,									
FY 2002	MEDIAN FAMILY	30% OF MEDIAN	10550	12050	13550	15050	16250	17450	18650	19900
INCOME:	50200	VERY LOW-INCOME	17550	20100	22600	25100	27100	29100	31100	33150
		LOW-INCOME	28100	32150	36150	40150	43350	46600	49800	53000

EFFECTIVE 01/31/02.....These income limits must be used no later than 45 days from the effective date

“Very Low-Income”= 50% of median income border

“Low-Income = 80% of median income limit ....(DO NOT USE THIS LINE, NOT CONSIDERED LOW-INCOME UNDER THE TAX CREDIT PORGRAM

To calculate 60% - multiply 50% by 1.2 (For example, 60% of the median income limit for one person in Atlantic County would be \$18,150 X1.2, which equals \$21,780)

**NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF HOUSING AND COMMUNITY RESOURCES  
SECTION 8 HOUSING PROGRAM**

**ALLOWANCES FOR TENANT-FURNISHED UTILITIES AND SERVICES  
EFFECTIVE DATE: April 22, 2002**

UTILITIES OR SERVICE	UNIT* TYPE	ZERO BR	ONE BR	TWO BR	THREE BR	FOUR BR	FIVE BR
<b>1. HEATING/COOLING</b>							
NATURAL GAS and BOTTLE GAS	1	21	30	39	47	60	69
	2	17	23	30	36	46	53
	3	12	17	21	26	33	38
OIL	1	24	34	44	54	68	78
	2	19	26	34	41	53	60
	3	13	19	24	29	38	43
ELECTRIC	1	27	38	48	59	75	86
	2	21	29	37	45	58	66
	3	15	21	27	32	41	47
CENTRAL A/C	1	6	8	11	13	17	19
	2	5	7	8	10	13	15
	3	3	5	6	7	9	11
Room A/C units @ \$4.00 each =							
<b>2. COOKING</b>							
NATURAL GAS/BOTTLE GAS		10	12	13	15	17	18
ELECTRIC		2	3	4	5	7	8
3. OTHER ELECTRIC		18	24	30	36	45	51
<b>4. WATER HEATING</b>							
NATURAL GAS/BOTTLE GAS		9	13	17	21	26	30
ELECTRIC		12	17	22	26	34	39
OIL		10	15	19	23	29	33
5. WATER		17	21	25	29	36	40
6. SEWER		17	21	25	29	36	40
7. TRASH COLLECTION		18	18	18	18	18	18
<b>8. APPLIANCES (Lease or Installment Purchase)</b>							
Range/Microwave		17	17	17	17	17	17
Refrigerator		17	17	17	17	17	17
<b>TOTAL</b>							

**\* UNIT TYPE CODE:**

- 1. SINGLE FAMILY DETACHED OR MOBILE HOME**
- 2. DUPLEX OR TWO FAMILY**
- 3. GARDEN APTS., LOW RISE, HIGH RISE, ROW HOUSE OR TOWNHOUSE**

**EXHIBIT B1****OWNER'S CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**To: *NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY*

<b>Certification Dates:</b>	<b>From:</b> January 1, 20_____	<b>To:</b> December 31, 20_____	
<b>Project Name:</b>		<b>LITC No:</b>	
<b>Project Address:</b>		<b>City:</b>	<b>Zip:</b>

- ☐ No buildings have been Placed in Service

☐ At least one building has been placed in Service but owner elects to begin credit period in the following year.

If either of the above applies, please check the appropriate box, and proceed to page 2 to sign and date this form.

<b>Tax ID # of Ownership Entity:</b>	
--------------------------------------	--

The undersigned \_\_\_\_\_ on behalf of \_\_\_\_\_ (the "Owner"), hereby certifies that:

1. The project meets the minimum requirements of: (check one)  

☐ 20 - 50 test under Section 42(g)(1)(A) of the Code  
☐ 40 - 60 test under Section 42(g)(1)(B) of the Code  
☐ 15 - 40 test for "deep rent-skewed" projects under Section 42(g)(4) and 142(d)(4)(B) of the Code
2. There has been **no change in the applicable fraction** (as defined in Section 42(c)(1)(B) of the Code) for any building in the project:  

☐ **NO CHANGE**      ☐ **CHANGE**

If "**Change**", list the applicable fraction to be reported to the IRS for each building in the project for the certification year on page 3:
3. The owner has received an annual Tenant Income Certification from each low-income resident and documentation to support that certification, or the owner has a re-certification waiver letter from the IRS in good standing, has received an annual Tenant Income Certification from each low-income resident, and documentation to support the certification at their initial occupancy.  

☐ **YES**      ☐ **NO**
4. Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code:  

☐ **YES**      ☐ **NO**
5. All low-income units in the project are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i)(3)(B)(iii) of the Code):  

☐ **YES**      ☐ **NO**      ☐ **HOMELESS**
6. No finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court:  

☐ **NO FINDING**      ☐ **FINDING**
7. Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project: ☐ **YES**      ☐ **NO**

If "No", state nature of violation on page 3 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.

8. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the project since last certification submission:

☐ **NO CHANGE**      ☐ **CHANGE**

If "Change", state nature of change (e.g., a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed to the allocating authority in writing) on page 3:

9. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:

☐ **YES**      ☐ **NO**

10. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:

☐ **YES**      ☐ **NO**

11. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:

☐ **YES**      ☐ **NO**

12. An extended low-income housing commitment as described in section 42(h)(6) was in effect, including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment (not applicable to buildings with tax credits from years 1987-1989):

☐ **YES**      ☐ **NO**      ☐ **N/A**

13. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.

☐ **YES**      ☐ **NO**      ☐ **N/A**

14. There has been no change in the ownership or management of the project:

☐ **NO CHANGE**      ☐ **CHANGE**

If "Change", complete page 3 detailing the changes in ownership or management of the project.

**Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.**

The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY.

\_\_\_\_\_  
(Ownership Entity)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



(to be completed **ONLY** if “CHANGE” marked for question 14 above)

Date of Change:	
Taxpayer ID Number:	
Legal Owner Name:	
General Partnership:	
Status of Partnership (LLC, etc):	

Date of Change:	
Owner Contact:	
Owner Contact Phone:	
Owner Contact Fax:	
Owner Contact Email:	

Date of Change:	
Management Co. Name:	
Management Address:	
Management city, state, zip:	
Management Contact:	
Management Contact Phone:	
Management Contact Fax:	
Management Contact Email:	

## EXHIBIT B2

For Calendar Year Ending 12/31/

### NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY LOW INCOME HOUSING TAX CREDIT ANNUAL PROJECT CERTIFICATION

for  
Projects with a Special Needs Component

This property, in receiving its allocation of low income tax credits, was selected in part due to the commitment on the part of the owner to provide \_\_\_\_ (number) services for a population with special needs. As part of NJHMFA monitoring, we are requesting the owner to complete and submit the following information:

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

LITC #: \_\_\_\_\_

Credit Year: \_\_\_\_\_

Was this project awarded credits out of the Special Needs Cycle? \_\_\_\_\_

Total No. of Units: \_\_\_\_\_

Total No. of Low Income Units: \_\_\_\_\_

No. of Units set aside for the special needs component: \_\_\_\_\_

Special Needs Population served: \_\_\_\_\_

Name, title and phone number of person completing this Certification: \_\_\_\_\_

- I. Attach a job description for the person who provides social services
- II. Attach copies of the monthly newsletters and/or calendar of events for 2001
- III. Number of hours per week on-site service coordinator works: \_\_\_\_\_
- IV. Provide the following information for the other services being provided to the residents: (Attach additional pages.)
  - a. Description of service provided
  - b. Name of organization that provides this service
  - c. Cost of the service and who pays for service (tenant-paid, free of charge, etc.)
  - d. Number of residents that are served each month

Please be aware that all information provided is required for NJHMFA LIHTC monitoring and is strictly confidential. Copies of contracts with Social Service Providers must be maintained along with other project records and must be furnished upon request by NJHMFA. During the on-site visit, NJHMFA personnel may wish to review files in regard to services and speak to various participants regarding the special needs components of the project.

NOTE: Failure to comply with the special needs requirements of the application is grounds for a determination of noncompliance.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**EXHIBIT B3**

For Calendar Year Ending 12/31/

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY  
LOW INCOME HOUSING TAX CREDIT  
ANNUAL PROJECT CERTIFICATION**

for  
Projects with Social Service Models

This property, in receiving its allocation of low income tax credits, was selected in part due to the commitment on the part of the owner to provide \_\_\_\_ (number) social service programs for the tenants. As part of NJHMFA monitoring, we are requesting the owner to complete and submit the following information:

Project Name \_\_\_\_\_

Project Address \_\_\_\_\_

LITC # \_\_\_\_\_

Credit Year: \_\_\_\_\_

Name, title and phone number of person completing this Certification:

\_\_\_\_\_

- V. Attach a job description for the person who provide social services
- VI. Attach copies of the monthly newsletters and/or calendar of events for 2001
- VII. Number of hours per week on-site service coordinator works (if applicable): \_\_\_\_\_
- VIII. Provide the following information for the other services being provided to the residents: (Attach additional pages.)
  - a. Description of service provided
  - b. Name of organization that provides this service
  - c. Cost of the service and who pays for service (tenant-paid, free of charge, etc.)
  - d. Number of residents that are served each month

Please be aware that all information provided is required for NJHMFA LIHTC monitoring and is strictly confidential. Copies of contracts with Social Service Providers must be maintained along with other project records and must be furnished upon request by NJHMFA. During the on-site visit, NJHMFA personnel may wish to review files in regard to services and speak to various participants regarding the special needs components of the project.

NOTE: Failure to comply with the social service requirements of the application is grounds for a determination of noncompliance.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

[illegible]

**EXHIBIT C1****TENANT INCOME CERTIFICATION**
☐ Initial Certification    ☐ Recertification    ☐ Other \_\_\_\_\_

 Effective Date: \_\_\_\_\_  
 Move-in Date: \_\_\_\_\_  
 (MM/DD/YYYY)
**PART I - DEVELOPMENT DATA**
 Property Name: \_\_\_\_\_ County: \_\_\_\_\_ BIN #: \_\_\_\_\_  
 Address: \_\_\_\_\_ Unit Number: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_
**PART II. HOUSEHOLD COMPOSITION**

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

**PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)**

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
<b>TOTALS</b>	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL INCOME (E):

\$

**PART IV. INCOME FROM ASSETS**

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset

**TOTALS:**

\$

\$

Enter Column (H) Total

Passbook Rate

If over \$5000

\$ \_\_\_\_\_ X

2.00%

= (J) Imputed Income

\$

Enter the greater of the total of column I, or J: imputed income

**TOTAL INCOME FROM ASSETS (K)**

\$

**(L) Total Annual Household Income from all Sources [Add (E) + (K)]**

\$

**HOUSEHOLD CERTIFICATION & SIGNATURES**

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature

(Date)

Signature

(Date)

Signature

(Date)

Signature

(Date)

**PART V. DETERMINATION OF INCOME ELIGIBILITY**

TOTAL ANNUAL HOUSEHOLD INCOME  
FROM ALL SOURCES:  
From item (L) on page 1

\$

Household Meets  
Income Restriction  
at:

- ☐ 60% ☐ 50%  
☐ 40% ☐ 30%  
☐ \_\_\_\_\_%

**RECERTIFICATION ONLY:**

Current Income Limit x 140%:

\$

Household Income exceeds 140% at  
recertification:  
☐ Yes ☐ No

Current Income Limit per Family Size: \$

Household Income at Move-in: \$

Household Size at Move-in: \_\_\_\_\_

**PART VI. RENT**

Tenant Paid Rent \$  
Utility Allowance \$

Rent Assistance: \$  
Other non-optional charges: \$

GROSS RENT FOR UNIT:  
(Tenant paid rent plus Utility Allowance &  
other non-optional charges)

\$

Unit Meets Rent Restriction at:

- ☐ 60% ☐ 50% ☐ 40% ☐ 30% ☐ \_\_\_\_\_%

Maximum Rent Limit for this unit: \$

**PART VII. STUDENT STATUS**

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ yes ☐ no

If yes, Enter student explanation\*  
(also attach documentation)

Enter  
1-4

\*Student Explanation:

- 1 TANF assistance
- 2 Job Training Program
- 3 Single parent/dependent child
- 4 Married/joint return

**PART VIII. PROGRAM TYPE**

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit ☐

See Part V above.

b. HOME ☐

Income Status

- ☐ ≤ 50% AMGI  
☐ ≤ 60% AMGI  
☐ ≤ 80% AMGI  
☐ OI\*\*

c. Tax Exempt ☐

Income Status

- ☐ 50% AMGI  
☐ 60% AMGI  
☐ 80% AMGI  
☐ OI\*\*

d. AHDP ☐

Income Status

- ☐ 50% AMGI  
☐ 80% AMGI  
☐ OI\*\*

e. \_\_\_\_\_ ☐  
(Name of Program)

Income Status

- ☐ \_\_\_\_\_  
☐ \_\_\_\_\_  
☐ OI\*\*

\*\* Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

**SIGNATURE OF OWNER/REPRESENTATIVE**

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

# INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

*This form is to be completed by the owner or an authorized representative.*

## Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Move-in Date	Enter the date the tenant has or will take occupancy of the unit.
Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
Address	Enter the address of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.

## Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and social security number or alien registration number for each occupant.

**If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.**

## Part III - Annual Income

**See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.**

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).

**EXHIBIT C1**

Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.

Row (E) Add the totals from columns (A) through (D), above. Enter this amount.

**Part IV - Income from Assets**

**See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.**

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F) List the type of asset (i.e., checking account, savings account, etc.)

Column (G) Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).

Column (H) Enter the cash value of the respective asset.

Column (I) Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).

TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K) Enter the greater of the total in Column (I) or (J)

Row (L) Total Annual Household Income From all Sources Add (E) and (K) and enter the total

**HOUSEHOLD CERTIFICATION AND SIGNATURES**

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

**PART V – DETERMINATION OF INCOME ELIGIBILITY**

Total Annual Household Income from all Sources Enter the number from item (L).

Current Income Limit per Family Size Enter the Current Move-in Income Limit for the household size.

Household income at move-in Household size at move-in For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.

Household Meets Income Restriction Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Current Income Limit x 140% For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.



**EXHIBIT C1****Part VI - Rent**

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

**Part VII - Student Status**

If all household members are full time\* students, check “yes”. If at least one household member is not a full time student, check “no”.

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

*\*Full time is determined by the school the student attends.*

**PART VIII – PROGRAM TYPE**

Mark the program(s) for which this household’s unit will be counted toward the property’s occupancy requirements. Under each program marked, indicate the household’s income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household’s designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household’s designation.
AHDP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household’s unit will count towards the set-aside requirements, mark the appropriate box indicating the household’s designation.
Other	If the property participates in any other affordable housing program, complete the information as appropriate.

**SIGNATURE OF OWNER/REPRESENTATIVE**

It is the responsibility of the owner or the owner’s representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

**These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.**

## EMPLOYMENT VERIFICATION

## THIS SECTION TO BE COMPLETED BY MANAGEMENT AND EXECUTED BY TENANT

TO: (Name &amp; address of employer)

Date: \_\_\_\_\_

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---



---

RE: \_\_\_\_\_  
Applicant/Tenant Name

Social Security Number

Unit # (if assigned)

I hereby authorize release of my employment information.

Signature of Applicant/Tenant

Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

Project Owner/Management Agent

Return Form To:

## THIS SECTION TO BE COMPLETED BY EMPLOYER

Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Presently Employed: Yes \_\_\_\_\_ Date First Employed \_\_\_\_\_ No \_\_\_\_\_ Last Day of Employment \_\_\_\_\_

Current Wages/Salary: \$ \_\_\_\_\_ (circle one) hourly weekly bi-weekly semi-monthly monthly yearly other

Average # of regular hours per week: \_\_\_\_\_ Year-to-date earnings: \$ \_\_\_\_\_ through \_\_/\_\_/\_\_

Overtime Rate: \$ \_\_\_\_\_ per hour Average # of overtime hours per week: \_\_\_\_\_

Shift Differential Rate: \$ \_\_\_\_\_ per hour Average # of shift differential hours per week: \_\_\_\_\_

Commissions, bonuses, tips, other: \$ \_\_\_\_\_ (circle one) hourly weekly bi-weekly semi-monthly monthly yearly other

List any anticipated change in the employee's rate of pay within the next 12 months: \_\_\_\_\_; Effective date: \_\_\_\_\_

If the employee's work is seasonal or sporadic, please indicate the layoff period(s): \_\_\_\_\_

Additional remarks: \_\_\_\_\_

Employer's Signature

Employer's Printed Name

Date

Employer [Company] Name and Address

Phone #

Fax #

E-mail

**NOTE:** Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

**EXHIBIT C3**

**VERIFICATION OF TERMINATION OF EMPLOYMENT**

(Retype onto owner/managing agent/project letterhead.)

DATE

Employer  
Address  
City, State, Zip

RE: (Tenant Name)  
(Social Security #)

Dear Sir/Madam:

We are required, through the employer, to verify the termination of employment of all applicants for, or tenants in, projects receiving an allocation of low income housing tax credits. We ask your cooperation in supplying this required information. In no event should this form be filled out by the employee. Forms should be completed by the timekeeper, bookkeeper, accountant or other authorized representative. If you have any questions, please do not hesitate to contact me at (phone number).

Sincerely,

Owner/managing agent

I hereby consent to the release of the information requested.

\_\_\_\_\_  
Signature of Applicant/Tenant

\_\_\_\_\_  
Date

-----  
Employee Name\_

S.S.#

Employee Address\_\_\_\_\_Date Employed

Date of Termination\_\_\_\_\_ Last Day Employee Actually Worked

Will employee receive additional pay for unused annual or sick leave? Yes\_\_\_No\_\_\_

If yes, state amount employee will receive \$\_\_\_\_\_

Will employee receive any additional pay checks for workmen's compensation? Yes\_\_\_ No

If yes, give name, address of company through which this may be verified:

\_\_\_\_\_  
Do you anticipate rehiring this employee Yes\_\_\_ No\_\_\_

If yes, when?\_\_\_\_\_

\_\_\_\_\_  
Signature of Employer or Authorized Representative

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Title/Firm

\_\_\_\_\_  
Date

## VERIFICATION OF UNEMPLOYMENT BENEFITS

(Retype onto owner/managing agent/project letterhead.)

Date

---

---

---

RE: Tenant Name\_\_\_\_\_

Claim #\_\_\_\_\_

Dear Sir/Madam:

We are required to verify the income of applicants living in units in connection with the federal Low Income Housing Tax Credit Program. To comply with this requirement, we ask your cooperation in supplying information regarding the income of the person listed above. This information will only be used to determine eligibility status of the applicant. Your prompt response will be appreciated. If you have any questions, please do not hesitate to contact me at (Phone Number).

Sincerely,

Owner/Managing Agent

I hereby consent to release of the information requested.

Signature of Applicant/Tenant	Date
.....	.....

Gross Weekly Payment \$\_\_\_\_\_

Date of Initial Payment \_\_\_\_\_

Duration of Benefits \_\_\_\_\_ Weeks

Is claimant eligible for further benefits? Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, how many weeks? \_\_\_\_\_ Amount \$ \_\_\_\_\_

If no, what is the termination date of the benefits ? \_\_\_\_\_

Signature of Authorized Representative Telephone

Title \_\_\_\_\_ Date \_\_\_\_\_

**CERTIFICATION OF ZERO INCOME**(To be completed by adult household members only, if appropriate.)

Household Name: \_\_\_\_\_ Unit No. \_\_\_\_\_

Development Name: \_\_\_\_\_ City: \_\_\_\_\_

1. I hereby certify that I do not individually receive income from any of the following sources:
  - a. Wages from employment (including commissions, tips, bonuses, fees, etc.);
  - b. Income from operation of a business;
  - c. Rental income from real or personal property;
  - d. Interest or dividends from assets;
  - e. Social Security payments, annuities, insurance policies, retirement funds, pensions, or death benefits;
  - f. Unemployment or disability payments;
  - g. Public assistance payments;
  - h. Periodic allowances such as alimony, child support, or gifts received from persons not living in my household;
  - i. Sales from self-employed resources (Avon, Mary Kay, Shaklee, etc.);
  - j. Any other source not named above.
2. I currently have no income of any kind and there is no imminent change expected in my financial status or employment status during the next 12 months.
3. I will be using the following sources of funds to pay for rent and other necessities: \_\_\_\_\_  
\_\_\_\_\_

Under penalty of perjury, I certify that the information presented in this certification is true and accurate to the best of my knowledge. The undersigned further understand(s) that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of a lease agreement.

\_\_\_\_\_  
Signature of Applicant/Tenant\_\_\_\_\_  
Printed Name of Applicant/Tenant\_\_\_\_\_  
Date

## VERIFICATION OF SUPPORT

I hereby consent to the release of the information requested.

\_\_\_\_\_  
Signature of Applicant/Tenant

\_\_\_\_\_  
Date

.....  
Date:\_\_\_\_\_

\_\_\_\_\_  
(Owner/Managing Agent)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State Zip

RE:(Tenant Name)

Dear Owner/Managing Agent:

FOR CASH MONEY CONTRIBUTED:

I, \_\_\_\_\_, do hereby swear or affirm that I

contribute the sum of \$ \_\_\_\_\_ per week ( ), month ( ), or year ( )

to \_\_\_\_\_  
Applicant/Tenant Name Applicant/Tenant Address

for: ( ) Financial Assistance

( ) Alimony

( ) Child Support for child/children, whose names are:

\_\_\_\_\_  
Print Name/Relationship

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Telephone Number

CONSENT FORM TO RELEASE SOCIAL SECURITY INFORMATION

Date:\_\_\_\_\_

TO: Social Security Administration

Applicant/Tenant Name \_\_\_\_\_

Date of Birth\_\_\_\_\_

Social Security Number\_\_\_\_\_

I authorize the Social Security Administration to release information or records about me to:

Owner/Managing Agent:\_\_\_\_\_

Organization:\_\_\_\_\_

Address:\_\_\_\_\_

I want this information released to the above named individual or organization to verify my income. I am an applicant for admission as a tenant to a federally aided housing unit operated by the organization. The organization will use the information to determine my eligibility status.

Please release the following information (Mark below, the information that is being requested.):

\_\_\_\_\_ Gross monthly social security benefit amount, type of benefit, and date of birth.

\_\_\_\_\_ Amount of deductions for Medicare premiums

\_\_\_\_\_ Gross monthly supplemental security income payment amount (including state supplement), type of benefit, and date of birth.

I am the individual to whom the information/record applies. If a minor, I am the above person's parent and/or legal guardian. I understand that if I make any representation which is false, I could be punished under penalty of fraud.

\_\_\_\_\_  
Applicant/ Tenant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Relationship

## Date

Name \_\_\_\_\_  
Rank \_\_\_\_\_  
Serial No. \_\_\_\_\_

Sincerely,

I hereby authorize the release of the information requested.

Signature of Applicant/Tenant	Date
-------------------------------	------

## MILITARY PAY VERIFICATION DATA

\_\_\_\_\_Years and \_\_\_\_\_ Months of service for pay purposes.

Rate per Month

Base pay and longevity pay	\$ _____
Proficiency pay	\$ _____
Seal and foreign duty pay	\$ _____
Hazardous duty pay	\$ _____
Subsistence allowance	\$ _____
Quarters allowance	\$ _____
Other (explain)	\$ _____

Total Amount Received Monthly \$ \_\_\_\_\_  
Number of dependents claimed \_\_\_\_\_

Signature of Military Personnel Officer	Date
---	------



(Retype onto owner/managing agent/project letterhead.)

TO BE COMPLETED BY INSTITUTION

CHECKING ACCOUNTS

Account Number(s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Average 6 month Balance (s)

\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_

Are these interest bearing accounts?    Yes\_\_\_\_    No\_\_\_\_    If yes, interest rate \_\_\_\_

SAVINGS ACCOUNTS

Account Number(s)

Present Balance(s)

Annual Interest Rate

Withdrawal Penalty

CERTIFICATES OF DEPOSIT

Account Number(s)

Present Balance(s)

Annual Interest Rate

Withdrawal Penalty

TRUST

Value of Trust Fund Administered:    \$ \_\_\_\_\_

Anticipated amount of income to be earned by

Trust over next 12 months

\$ \_\_\_\_\_

PROPERTY

Value of equity in real property

\$ \_\_\_\_\_

I certify that the above information is true and correct.

\_\_\_\_\_  
Name of Banking Official

\_\_\_\_\_  
Title of Banking Official

\_\_\_\_\_  
Company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

**EXHIBIT C10**

**SAMPLE VERIFICATION OF INCOME ELIGIBILITY FROM SECTION 8 AUTHORITY**

(Retype onto owner/managing agent/project letterhead.)

Date

(Public Housing Authority)

(Address)

(City, State Zip)

RE: (Head of Household Name)  
(Project Name, Address, Unit #)

Dear Sir/Madam:

As the owner/managing agent of the above referenced low -income housing tax credit property, I/we are required to verify the income of all applicants or existing tenants in those housing units.

The above referenced tenant receives housing assistance payments under the Section 8 program from the (name) Public Housing Authority. Because this tenant is residing in a Low Income Housing Tax Credit building, Section 42 of the Internal Revenue Code requires that the building owner have the tenant complete an income certification and collect documentation to support the income certification. This requirement could be met if the public housing authority provides the tenant's income and a statement declaring that the tenant's income does not exceed the applicable income limit.

Please complete the form below for the above referenced tenant and return to me at the above address. The tenant has consented below to the release of their income and this statement. Your prompt return of this form will be appreciated. If you have any questions, please do not hesitate to contact me at (Phone Number).

Sincerely,

Owner/Managing Agent

I hereby consent to the release of the information requested.

Signature of Applicant/Tenant

Date

-----  
PHA STATEMENT

-----  
DATE:

As per the requirements of the Internal Revenue Code, the above household's gross income was calculated and certified on (date) and found not to exceed   \*   percent of the median income limit for that year. Back-up documentation was collected from the tenant to verify the gross income.

\_\_\_\_\_  
Name of Public Housing Authority

Signature of Public Housing Authority Rep.

\* This will be 50% or 60%, depending on which minimum set-aside was selected by the owner. The owner/agent should fill this in for the PHA

**UNDER \$5,000 ASSET CERTIFICATION**

For households whose combined net assets do not exceed \$5,000.  
Complete only one form per household; include assets of children.

Household Name: \_\_\_\_\_ Unit No. \_\_\_\_\_

Development Name: \_\_\_\_\_ City: \_\_\_\_\_

**Complete all that apply for 1 through 4:**

## 1. My/our assets include:

(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income	Source	(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income	Source
\$ _____	_____	\$ _____	Savings Account	\$ _____	_____	\$ _____	Checking Account
\$ _____	_____	\$ _____	Cash on Hand	\$ _____	_____	\$ _____	Safety Deposit Box
\$ _____	_____	\$ _____	Certificates of Deposit	\$ _____	_____	\$ _____	Money market funds
\$ _____	_____	\$ _____	Stocks	\$ _____	_____	\$ _____	Bonds
\$ _____	_____	\$ _____	IRA Accounts	\$ _____	_____	\$ _____	401K Accounts
\$ _____	_____	\$ _____	Keogh Accounts	\$ _____	_____	\$ _____	Trust Funds
\$ _____	_____	\$ _____	Equity in real estate	\$ _____	_____	\$ _____	Land Contracts
\$ _____	_____	\$ _____	Lump Sum Receipts	\$ _____	_____	\$ _____	Capital investments
\$ _____	_____	\$ _____	Life Insurance Policies (excluding Term)				
\$ _____	_____	\$ _____	Other Retirement/Pension Funds not named above:				_____
\$ _____	_____	\$ _____	Personal property held as an investment** :				_____
\$ _____	_____	\$ _____	Other (list):				_____

PLEASE NOTE: Certain funds (e.g., Retirement, Pension, Trust) may or may not be (fully) accessible to you. Include only those amounts which are.

\*Cash value is defined as market value minus the cost of converting the asset to cash, such as broker's fees, settlement costs, outstanding loans, early withdrawal penalties, etc.

\*\*Personal property held as an investment may include, but is not limited to, gem or coin collections, art, antique cars, etc. Do not include necessary personal property such as, but not necessarily limited to, household furniture, daily-use autos, clothing, assets of an active business, or special equipment for use by the disabled.

2. ☐ Within the past two (2) years, I/we have sold or given away assets (including cash, real estate, etc.) for more than \$1,000 below their fair market value (FMV). Those amounts\* are included above and are equal to a total of: \$ \_\_\_\_\_ (\*the difference between FMV and the amount received, for each asset on which this occurred).
3. ☐ I/we have not sold or given away assets (including cash, real estate, etc.) for less than fair market value during the past two (2) years.
4. ☐ I/we do not have any assets at this time.

**The net family assets (as defined in 24 CFR 813.102) above do not exceed \$5,000 and the annual income from the net family assets is**

**\$ \_\_\_\_\_. This amount is included in total gross annual income.**

Under penalty of perjury, I/we certify that the information presented in this certification is true and accurate to the best of my/our knowledge. The undersigned further understand(s) that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of a lease agreement.

Applicant/Tenant \_\_\_\_\_ Date \_\_\_\_\_ Applicant/Tenant \_\_\_\_\_ Date \_\_\_\_\_

CERTIFICATION OF ASSETS DISPOSED OF  
FOR LESS THAN FAIR MARKET VALUE

I/We have \_\_\_\_\_ /have not \_\_\_\_\_ disposed of any asset(s) for less than fair market value in the 24 months (2 years) preceding \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_. If asset(s) were disposed of for less than fair market value, they are described below.

Asset Disposed of	Date of Disposition	Fair Market Value	Amount Received
-------------------	---------------------	-------------------	-----------------

Section 1001 of Title 18 of the U. S. Code makes it a criminal offense to make any willful false statements or misrepresentations to any Department or Agency of the U. S. as to any matter within its jurisdiction.

Signature of Applicant/Tenant    Date

Signature of Co-Applicant/Co-Tenant	Date
-------------------------------------	------

**EXHIBIT C13**  
**NJHMFA FORM**  
**STUDENT VERIFICATION**

**THIS SECTION TO BE COMPLETED BY MANAGEMENT AND EXECUTED BY STUDENT**

This Student Verification is being delivered in connection with the undersigned's eligibility for residency in the following apartment:

Project Name: \_\_\_\_\_

Building Address: \_\_\_\_\_

Unit Number if assigned: \_\_\_\_\_

I hereby grant disclosure of the information requested below from \_\_\_\_\_  
Name of Educational Institution

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Student ID#

**Return Form to:**

**THIS SECTION TO BE COMPLETED BY EDUCATIONAL INSTITUTION**

The above-named individual has applied for residency or is currently residing in housing that requires verification of student status. Please provide the information requested below:

Is the above-named individual a student at this educational institution?    YES    NO

If so, part-time or full-time?    PART-TIME    FULL-TIME

**If full-time, the date the student enrolled as such:** \_\_\_\_\_

**Expected date of graduation:** \_\_\_\_\_

I hereby certify that the information supplied in this section is true and complete to the best of my knowledge.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print your name: \_\_\_\_\_

Tel. #: \_\_\_\_\_

Title: \_\_\_\_\_

Educational Institution: \_\_\_\_\_

**NOTE:** Section 1001 of Title 18 of the U. S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

**Exhibits D1 thru D13 not available at this time. Contact the Agency for assistance.**

<http://www.irs.ustreas.gov>

## EXHIBIT E1

<b>Form 8609</b> (Rev. January 2009) Department of the Treasury Internal Revenue Service	<b>Low-Income Housing Credit Allocation Certification</b> ▶ Do not file separately. The building owner must attach Form 8586, Form 8609, and Schedule A (Form 8609) to its federal income tax return.	OMB No. 1545-0088  Attachment Sequence No. 36
---	---	--

**Part I Allocation of Credit—Completed by Housing Credit Agency Only**

Check if: ☐ Addition to Qualified Basis ☐ Amended Form

A Address of building (do not use P. O. box; see instructions)	B Name and address of housing credit agency
C Name, address, and TIN of building owner receiving allocation	D Employer identification number of agency  E Building identification number (BIN)

TIN ▶ \_\_\_\_\_

1a Date of allocation ▶ ____/____/____	b Maximum housing credit dollar amount allowable	1b	
2 Maximum applicable credit percentage allowable		2	%
3a Maximum qualified basis		3a	
b Check here <input type="checkbox"/> If the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(C). Enter the percentage to which the eligible basis was increased (see instructions)			
		3b	1 %
4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-)		4	%
5 Date building placed in service ▶ ____/____/____			
6 Check the box that describes the allocation for the building (check one only):			
a <input type="checkbox"/> Newly constructed and federally subsidized    b <input type="checkbox"/> Newly constructed and not federally subsidized    c <input type="checkbox"/> Existing building			
d <input type="checkbox"/> Sec. 42(j) rehabilitation expenditures federally subsidized    e <input type="checkbox"/> Sec. 42(j) rehabilitation expenditures not federally subsidized			

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined Part I of this form and to the best of my knowledge and belief, the information is true, correct, and complete.

_____ Signature of authorized official	_____ Name (please type or print)	_____ Date
---	--------------------------------------	---------------

**Part II First-Year Certification—Completed by Building Owner for First Year of Credit Period Only**

7a Date building placed in service ▶ ____/____/____	b Eligible basis of building (see instructions)	7b	
8a Original qualified basis of the building at close of first year of credit period		8a	
b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
9a If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
b Do you elect to reduce eligible basis by disproportionate costs of non-low-income units (section 42(d)(3)?			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
10 Check the appropriate box for each election:			
a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1))			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
b Elect not to treat large partnership as taxpayer (section 42(j)(5))			
<input type="checkbox"/> Yes			
c Elect minimum set-aside requirement (section 42(i)(1)) (see instructions) <input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60 <input type="checkbox"/> 25-60 (N.Y.C. only)			
d Elect deep-rent-skewed project (section 142(d)(4)(B)) (see instructions) <input type="checkbox"/> 15-40			

**Note:** A separate Schedule A (Form 8609), Annual Statement, for each building must be attached to the corresponding Form 8609 for each year of the 15-year compliance period.

**Caution:** Read the instructions under Signature (page 4) before signing this part.

Under penalties of perjury, I declare that the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42 and that the qualified basis of the building has ☐ has not ☐ decreased for this tax year. I have examined this form and attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

_____ Signature	_____ Taxpayer identification number	_____ Date
_____ Name (please type or print)		

For Paperwork Reduction Act Notice, see page 4.      Cat. No. 63981U      Form 8609 (Rev. 1-2009)



EXHIBIT E2

<b>Form 8823</b> (Rev. January 1998) Department of the Treasury Internal Revenue Service	<b>Low-Income Housing Credit Agencies</b> <b>Report of Noncompliance or Building Disposition</b> <small>Note: File a separate Form 8823 for each building that is disposed of or goes out of compliance.</small>	OMB No. 1545-1204
<b>1</b> Building name (if any). Check if item 1 differs from Form 8809 <input type="checkbox"/> <b>2</b> Owner's name. Check if item 2 differs from Form 8809 <input type="checkbox"/>		
Street address		Continuation
City or town, state, and ZIP code		Street address
		City or town, state, and ZIP code
<b>3</b> Building identification number (BIN)		<b>4</b> Owner's taxpayer identification number
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="checkbox"/> EIN <input type="checkbox"/> SSN
<b>5</b> If this building is part of a multiple building project, enter the number of buildings in the project: <input type="text"/>		
<b>6a</b> Total number of residential rental units in this building		<input type="text"/>
<b>b</b> Total number of low-income units in this building		<input type="text"/>
<b>c</b> Total number of residential units in this building determined to have noncompliance issues		<input type="text"/>
<b>d</b> Total number of units reviewed by agency (see instructions)		<input type="text"/>
<b>7</b> Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY)		<input type="text"/>
<b>8</b> Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY)		<input type="text"/>
<b>9</b> Check this box if you are filing only to show correction of a previously reported noncompliance problem <input type="checkbox"/>		
<b>10</b> Check the box(es) that apply:		Out of compliance <input type="checkbox"/> Noncompliance corrected <input type="checkbox"/>
<b>a</b> Household income above income limit upon initial occupancy		<input type="checkbox"/>
<b>b</b> Major violations of health, safety, and building codes (see instructions)		<input type="checkbox"/>
<b>c</b> Pattern of minor violations of health, safety, and building codes (see instructions)		<input type="checkbox"/>
<b>d</b> Owner failed to submit annual certification		<input type="checkbox"/>
<b>e</b> Changes in eligible basis (see instructions)		<input type="checkbox"/>
<b>f</b> Project failed to meet minimum set-aside requirement (25/50, 40/60 test) (see instructions)		<input type="checkbox"/>
<b>g</b> Gross rent(s) exceed tax credit limits		<input type="checkbox"/>
<b>h</b> Project not available to the general public (see instructions)		<input type="checkbox"/>
<b>i</b> Household income increased above income limit and an available unit was rented to market rate tenant		<input type="checkbox"/>
<b>j</b> Project is no longer in compliance and is no longer participating in the low-income housing tax credit program		<input type="checkbox"/>
<b>k</b> Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)		<input type="checkbox"/>
<b>l</b> Low-income units occupied by nonqualified full-time students		<input type="checkbox"/>
<b>m</b> Owner failed to maintain or provide tenant income certification and documentation		<input type="checkbox"/>
<b>n</b> Owner did not properly calculate utility allowance		<input type="checkbox"/>
<b>o</b> Owner has failed to respond to agency requests for monitoring reviews and fees		<input type="checkbox"/>
<b>p</b> Low-income units used on a transient basis		<input type="checkbox"/>
<b>q</b> Other noncompliance issues (attach explanation)		<input type="checkbox"/>
<b>11</b> Additional information for any item above. Attach explanation and check here <input type="checkbox"/>		
<b>12</b> Building disposition		
<b>a</b> Building disposed of by: <input type="checkbox"/> Sale <input type="checkbox"/> Foreclosure <input type="checkbox"/> Abandonment <input type="checkbox"/> Destruction <input type="checkbox"/> Other (attach explanation)		
<b>b</b> New owner's name and address:		<b>c</b> Date of building disposition (MMDDYYYY)
Name		<input type="text"/>
Continuation		
Street address		<b>d</b> New owner's taxpayer identification number
City or town, state, and ZIP code		<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="checkbox"/> EIN <input type="checkbox"/> SSN
		<b>13</b> State housing agency employer identification number
		<input type="text"/>
		<b>14</b> Name and telephone number of contact person
Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.		
Signature of authorizing official <input type="text"/>		Print name and title <input type="text"/>
Date <input type="text"/>		Date <input type="text"/>

For Paperwork Reduction Act Notice, see back of form.

Cat. No. 12388D

Form 8823 (Rev. 1-98)

# EXHIBIT E3

<b>Form 8611</b> (Rev. January 1999) Department of the Treasury Internal Revenue Service		<b>Recapture of Low-Income Housing Credit</b> ▶ Attach to your return. <i>Note: Complete a separate Form 8611 for each building to which recapture applies.</i>		OMB No. 1545-1035  Attachment Sequence No. 90		
A. Nonrecaptured amount on return			B. Identifying number			
C. Address of building (as shown on Form 8609)		D. Building identification number (BIN)	E. Date placed in service (from Form 8609)			
F. If building is financed in whole or part with tax-exempt bonds, see instructions and furnish:						
(f) Issuer's name			(g) Date of issue			
(h) Name of issue			(i) CUSIP number			
<i>Note: If recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust), skip lines 3 - 7 and go to line 8.</i>						
1	Enter total credits reported on Form 8586 in prior years for this building.				1	
2	Credits included on line 1 attributable to additions to qualified basis (see instructions)				2	
3	Credits subject to recapture. Subtract line 2 from line 1				3	
4	Credit recapture percentage (see instructions)				4	
5	Accelerated portion of credit. Multiply line 3 by line 4				5	
6	Percentage decrease in qualified basis. Express as a decimal amount carried out to at least 3 places (see instructions)				6	
7	Amount of accelerated portion recaptured. Multiply line 5 by line 6. Section 42(j)(5) partnerships, go to line 13. All other flow-through entities (except electing large partnerships), enter the result here and enter each recipient's share on the appropriate line of Schedule K-1. Generally, flow-through entities other than electing large partnerships will stop here. (Note: An estate or trust enters on line 8 only its share of recapture amount attributable to the credit amount reported on its Form 8586.)				7	
8	Enter recapture amount from flow-through entity.				8	
9	Enter accelerated portion of the unused credit attributable to this building (see instructions)				9	
10	Net recapture. Subtract line 9 from line 7 or line 8. If less than zero, enter -0-				10	
11	Enter interest on the line 10 recapture amount (see instructions)				11	
12	Total recapture. Add lines 10 and 11. Enter here and on the appropriate line of your tax return. If more than one Form 8611 is filed, add the line 12 amounts from all forms and enter the total on the appropriate line of your return. Electing large partnerships, see instructions				12	
Only Section 42(j)(5) partnerships need to complete lines 13 and 14.						
13	Enter interest on the line 7 recapture amount (see instructions)				13	
14	Total recapture. Add lines 7 and 13 (see instructions)				14	

### General Instructions

Section references are to the Internal Revenue Code.

### Purpose of Form

Use this form if you must recapture part of the low-income housing credit you took in previous years because:

- The qualified basis of a building decreased from one year to the next, or
- You disposed of the building or an ownership interest in it, and you did not post a satisfactory bond or pledge eligible U.S. Treasury securities as collateral. For details on how to avoid recapture on a building disposition, see section 42(j)(6); Form 8603, Low-Income Housing Credit Disposition Bond; and Rev. Proc. 99-11, 1999-2 IRB 14.

*Note: If the decrease in qualified basis is because of a change in the amount for which you are financially at risk on the building, then you must first recalculate the amount of credit taken in prior years under section 42(k) before you calculate the recapture amount on this form.*

To complete this form you will need copies of the following forms that you have filed: Form 8586, Low-Income Housing Credit (and Form 3800, General Business Credit, if applicable); Form 8609, Low-Income Housing Credit Allocation Certification; Schedule A (Form 8609), Annual Statement; and Form 8611.

*Note: Flow-through entities must give partners, shareholders, and beneficiaries the information that is reported in items C, D, E, and F of Form 8611.*

Generally, recapture applies if:

- You dispose of a building or an ownership interest in it;
- There is a decrease in the qualified basis of the building from one year to the next; or
- The building no longer meets the minimum set-aside requirements of section 42(g)(1), the gross rent requirement of section 42(g)(2), or the other requirements for the units which are set aside.

However, recapture does not apply if:

- You disposed of the building or an ownership interest in it and you posted a satisfactory bond or pledged eligible U.S.

Treasury securities as collateral (for details, see section 42(j)(6); Form 8603; and Rev. Proc. 99-11);

- You disposed of an ownership interest in a building that you held through an electing large partnership;
- The decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowable in years after the year the building was placed in service;
- You correct a noncompliance event within a reasonable period after it is discovered or should have been discovered;
- The credit did not reduce your tax liability (but you must adjust the allowable general business credit carryback and carryforward); or
- The qualified basis is reduced because of a casualty loss, provided the property is restored or replaced within a reasonable period.

### Recordkeeping Requirements

To verify changes in qualified basis from year to year, you must keep, for 3 years after the 15-year compliance period ends, a copy of all Forms 8586, 8609, Schedule A (Form 8609), 8611, and 8603.

For Paperwork Reduction Act Notice, see page 2.

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